

**: OFFICIAL PROCEEDINGS :****: OF THE CITY OF PEORIA, ILLINOIS :**

Council Chambers, Peoria, Illinois, July 22, 2008, a Regular City Council Meeting was held this date at 6:24 P.M., at City Hall, Council Chambers, 419 Fulton Street, with Mayor Jim Ardis presiding, and with proper notice having been posted.

**ROLL CALL**

Roll call showed the following Council Members were physically present: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears, Turner, Van Auken, Mayor Ardis – 11; Absent: None.

**INVOCATION & PLEDGE OF ALLEGIANCE**

Mayor Ardis requested a moment of silent prayer or silent reflection and then he led the Pledge of Allegiance.

**PROCLAMATIONS, COMMENDATIONS, ETC.**

**COMMENDATION:** MAYOR'S YOUTH CORPS SUMMER EMPLOYMENT PROGRAM

**PROCLAMATION:** ST. JUDE WEEK

**PROCLAMATION:** HOOK A KID ON GOLF

**MINUTES**

Council Member Nichting moved to approve the minutes of the Regular City Council Meeting and Executive Sessions held on July 8, 2008, and the Special City Council Meeting and Executive Sessions held on July 15, 2008, as printed; seconded by Council Member Turner.

Approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears, Turner, Van Auken, Mayor Ardis – 11;

Nays: None.

**PETITIONS, REMONSTRANCES & COMMUNICATIONS – CITY OF PEORIA**

**(08-358) Communication from the Interim City Manager and Finance Director/Comptroller Requesting to Receive and File the RESULTS of the BIDS for the SALE of \$28,000,000.00 GENERAL OBLIGATION LIBRARY BONDS SERIES 2008 A.**

Director of Finance/Comptroller Jim Scroggins distributed a copy of the bids to all members of the City Council.

Ms. Barbara L. Chevalier, Vice President of Speer Financial, Inc., discussed the bids that were received today for the \$28,000,000 General Obligation Library Bonds, Series 2008A. She said there were five bids received and she said it was her opinion that the bid of Hutchinson, Shockey, Erley & Co., Chicago, Illinois, at 4.6106% was the best bid received and the most favorable to the City. She urged the City Council to accept their bid. She stated the City was rated by Moody's Investor Service at Double A3 and by Standard & Poor's at Double A. She said she felt this was a good sale.

Ms. Chevalier outlined the bids for interest rates that were also received from Piper Jaffray & Co., Minneapolis, MN at 4.6441%; PNC Capital Markets LLC, Philadelphia, PA at 4.7176%; Prager, Sealy & Co., LLC, New York, NY at 4.6431%; and Robert W. Baird & Co., Inc., Milwaukee, WI at 4.6291%.

Council Member Nichting moved to accept the low bid of Hutchinson, Shockey, Erley & Co., Chicago, IL at 4.6106% for the sale of the \$28,000,000 General Obligation Library Bonds, Series 2008A; seconded by Council Member Turner.

Approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears, Turner, Van Auken, Mayor Ardis – 11;

Nays: None.

Council Member Nichting moved to receive and file the bids from Piper Jaffray & Co., Minneapolis, MN at 4.6441%; PNC Capital Markets LLC, Philadelphia, PA at 4.7176%; Prager, Sealy & Co., LLC, New York, NY at 4.6431%; and Robert W. Baird & Co., Inc., Milwaukee, WI at 4.6291%; seconded by Council Member Turner.

Approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears, Turner, Van Auken, Mayor Ardis – 11;

Nays: None.

**CONSIDERATION OF CONSENT AGENDA ITEMS BY OMNIBUS VOTE, for the City of Peoria, with Recommendations as Outlined:**

- (08-359) NOTICE OF LAWSUIT Filed on Behalf of LATRICIA FOSTER Alleging False Arrest on March 7, 2008, with Recommendation to Receive and File and Refer to the Legal Department.**
- (08-360) NOTICE OF LAWSUIT Filed on Behalf of AARON L. WILSON Alleging False Arrest on March 10, 2008, with Recommendation to Receive and File and Refer to the Legal Department.**
- (08-361) Communication from the Interim City Manager and Director of Public Works Requesting Approval of the LOW BID of DAVE GILL STERLING TRUCKS for the PURCHASE of ONE DUMP TRUCK (Fully Equipped with Dump Box, Snow Plow, and Salt Spreader), in the Total Amount of \$135,625.00.**
- (08-362) Communication from the Interim City Manager and Director of Public Works Requesting Awarding a CONTRACT to PEKIN HARDWOOD/ WOODWORKERS SHOP, INC., in the Amount of \$84,238.00 for QUARTER SAWN OAK DOORS and TRIM at CITY HALL.**
- (08-363) Communication from the Interim City Manager and Director of Public Works Requesting Approval of the FINAL PAY ESTIMATE for the Amount of \$34,159.26 (\$14,594.08 or 6.00% Over Contract Amount) to P.A. ATHERTON CONSTRUCTION, INC., for the W. VIRGINIA AVENUE ROADWAY IMPROVEMENT PROJECT (Gale to Institute & Continuing to W. McClure Avenue.)**

- (08-364) Communication from the Interim City Manager and Finance Director/ Comptroller Regarding the 2008 SERIES A GENERAL OBLIGATION LIBRARY BONDS OFFICIAL STATEMENT, with Request to Receive and File.
- (08-365) Communication from the Interim City Manager and Finance Director/ Comptroller Requesting Adoption of an ORDINANCE NO. 16,305 Amending the City of Peoria Budget for Fiscal Year 2008 Relating to the EDWARD BYRNE MEMORIAL (JAG) JUSTICE ASSISTANCE GRANT, in the Amount of \$38,120.00.
- (08-366) Communication from the Interim City Manager and Chief of Police Requesting Approval and Authorization for the City Manager to Execute an INTERGOVERNMENTAL AGREEMENT Between the City of Peoria and County of Peoria, in the Amount of \$38,120.00 for Funding Under the FY 2008 EDWARD BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM. (The City's Portion is \$22,109.60 and the County's Portion is \$16,010.40.)
- (08-367)  
\* Communication from the Interim City Manager and Finance Director/Comptroller Requesting Adoption of an ORDINANCE Amending the City of Peoria Budget for Fiscal Year 2008 Relating to the PURCHASE of TWO PERSONAL TRANSPORT VEHICLES (Brand Name Segway, Model X2 Police), Including Accessories, in the Amount of \$13,775.00, from Restricted Capital Fund Balance (Law Enforcement).
- (08-368)  
\*\* Communication from the Interim City Manager and Chief of Police Requesting Approval of the LOW BID of SEGWAY OF CHICAGO for the PURCHASE of TWO PERSONAL TRANSPORT VEHICLES (Brand Name Segway, Model X2 Police), Including Accessories, in the Amount of \$13,775.03, to be Funded in Total Through the Court Supervision Account.
- (08-369)  
\*\*\* Communication from the Interim City Manager and Director of Planning and Growth Management Requesting Adoption of an ORDINANCE Granting a SPECIAL USE in a Class R-2 (Single-Family Residential) District and R-6 (Multi-Family Residential) District for a DAY CARE FACILITY for the Property Located at 1826-1828 N. LEHMAN ROAD, Parcel Numbers 18-06-102-023 & 024, with Conditions.
- (08-370)  
\*\*\*\* Communication from the Interim City Manager and Director of Planning and Growth Management Requesting Adoption of an ORDINANCE Amending Ordinance No. 16,174, as Amended, an EXISTING SPECIAL USE for a MOTEL in a Class C-1 (General Commercial) District to Include ROOF TOP SIGNS for the Property Located at 2726 W. LAKE AVENUE, with Conditions.
- (08-371) Communication from the Interim City Manager and Director of Planning and Growth Management Requesting Adoption of an ORDINANCE NO. 16,306 Granting a SPECIAL USE in a Class R-1 (Single Family Residential) District for an Existing Country Club to Include RESTRUCTURING a SWIMMING POOL and Removing and Replacing the Existing MAINTENANCE BUILDING for the Property Located at 7724 N. KNOXVILLE AVENUE, and Parcel #14-04-351-001.

- (08-372) Communication from the Interim City Manager and Director of Public Works Requesting Approval of the SIDEWALK PARTICIPATION REQUEST for B & L SALES CO. at 1501 S.W. ADAMS STREET, in the Amount of \$11,093.48.
- (08-373) APPOINTMENT by Mayor Jim Ardis to the ANIMAL REVIEW BOARD, with Recommendation to Concur:
- Susan K. Hirschman (Voting) - Term Expires 6/30/2010
- (08-374) APPOINTMENT by Mayor Jim Ardis to the SISTER CITY COMMISSION, with Recommendation to Concur:
- Gary Schmidt (Voting) - Term Expires 6/30/2011
- (08-375) REAPPOINTMENTS by Mayor Jim Ardis to the RENAISSANCE PARK ADVISORY COUNCIL, with Recommendation to Concur:
- Lynne M. Binkele (Voting) - Term Expires 6/30/2009  
Michael J. Dugard (Voting) - Term Expires 6/30/2009  
Maryruth Ginn (Voting) - Term Expires 6/30/2009  
Nancy Kimble-Mitchell (Voting) - Term Expires 6/30/2009  
Diane Nowlan (Voting) - Term Expires 6/30/2009  
Lisa Slane (Voting) - Term Expires 6/30/2009  
Daryl Somogyi (Voting) - Term Expires 6/30/2009
- (08-376) REAPPOINTMENT by Mayor Jim Ardis of the DEPUTY LOCAL LIQUOR  
\*\*\*\*\* COMMISSIONER, with Request to Receive and File.
- Council Member Eric Turner - Term Expires 5/04/2009
- (08-377) REPORT of the CITY TREASURER REGINALD A. WILLIS for the Month of MAY 2008, with Recommendation to Receive and File.

Mayor Ardis questioned if the Council wished to have any of the Consent Agenda items removed for further discussion.

Council Member Sandberg requested that Item Nos. 08-367, 08-368, and 08-376 be removed from the Consent Agenda for further discussion.

Council Member Spears requested that Item No. 08-369 and 08-370 be removed from the Consent Agenda for further discussion.

Council Member Jacob requested that Item No. 08-376 be removed from the Consent Agenda for further discussion.

Council Member Nichting moved to approve the Consent Agenda items as outlined in the Council Communications; seconded by Council Member Manning.

Item Nos. 08-359 through 08-377 (excluding Item Nos. 08-367, 08-368, 08-369, 08-370, and 08-376, which were removed for further discussion) were approved by roll call vote under the Omnibus Vote Designation.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears, Turner, Van Auken, Mayor Ardis – 11;

Nays: None.

- (08-367)**      **Communication from the Interim City Manager and Finance**  
\*      **Director/Comptroller Requesting Adoption of an ORDINANCE Amending the City of Peoria Budget for Fiscal Year 2008 Relating to the PURCHASE of TWO PERSONAL TRANSPORT VEHICLES (Brand Name Segway, Model X2 Police), Including Accessories, in the Amount of \$13,775.00, from Restricted Capital Fund Balance (Law Enforcement).**

In discussion with Council Member Sandberg regarding his concern that an amendment was being requested for this expenditure for the 2008 Budget, Assistant Police Chief Phil Korem explained the Police Department's desire to purchase and use these transport vehicles yet this summer. He said the expenditure would be paid for through special funding and tax dollars would not be used.

Council Member Turner pointed out that other cities were using these vehicles to save fuel costs and he commended the Police Department for their vision.

Council Member Turner moved to adopt the Ordinance amending the City of Peoria Budget for Fiscal Year 2008 relating to the purchase of two personal transport vehicles (brand name Segway, Model X2 Police), including accessories, in the amount of \$13,775.00, from Restricted Capital Fund Balance (Law Enforcement); seconded by Council Member Manning.

Council Member Spears requested the Police Department to provide the City Council with a report back in six months regarding the benefits of using Segways.

Council Member Montelongo requested that the report back include a comparison with the use of mountain bikes that the Police had been using.

Motion to adopt ORDINANCE NO. 16,307 amending the City of Peoria Budget for Fiscal Year 2008 relating to the purchase of two personal transport vehicles (brand name Segway, Model X2 Police), including accessories, in the amount of \$13,775.00, from Restricted Capital Fund Balance (Law Enforcement) was approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Spain, Spears, Turner, Van Auken, Mayor Ardis – 10;

Nays: Sandberg - 1.

- (08-368)**      **Communication from the Interim City Manager and Chief of Police**  
\*\*      **Requesting Approval of the LOW BID of SEGWAY OF CHICAGO for the PURCHASE of TWO PERSONAL TRANSPORT VEHICLES (Brand Name Segway, Model X2 Police), Including Accessories, in the Amount of \$13,775.03, to be Funded in Total Through the Court Supervision Account.**

Following a brief comment by Council Member Sandberg, Council Member Manning moved to approve the low bid of Segway of Chicago for the purchase of two personal transport vehicles (brand name Segway, Model X2 Police), including accessories, in the amount of \$13,775.03, to be funded in total through the Court Supervision Account; seconded by Council Member Turner.

Approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Spain, Spears, Turner, Van Auken, Mayor Ardis – 10;

Nays: Sandberg - 1.

- (08-369)**      **Communication from the Interim City Manager and Director of Planning and Growth Management Requesting Adoption of an ORDINANCE Granting a SPECIAL USE in a Class R-2 (Single-Family Residential) District and R-6 (Multi-Family Residential) District for a DAY CARE FACILITY for the Property Located at 1826-1828 N. LEHMAN ROAD, Parcel Numbers 18-06-102-023 & 024, with Conditions.**  
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Council Member Spears moved to adopt an Ordinance granting a Special Use in a Class R-2 (Single-Family Residential) District and R-6 (Multi-Family Residential) District for a Day Care Facility for the property located at 1826-1828 N. Lehman Road, Parcel Numbers 18-06-102-023 & 024, with conditions; seconded by Council Member Jacob.

Council Member Spears said he had received several complaints regarding litter and trash in a ravine near this facility, and he urged the neighborhood to police the area for debris in the future, especially since the facility would be used as a day care.

Motion to adopt ORDINANCE NO. 16,308 granting a Special Use in a Class R-2 (Single-Family Residential) District and R-6 (Multi-Family Residential) District for a Day Care Facility for the property located at 1826-1828 N. Lehman Road, Parcel Numbers 18-06-102-023 & 024, with conditions, was approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears, Turner, Van Auken, Mayor Ardis – 11;

Nays: None.

- (08-370)**      **Communication from the Interim City Manager and Director of Planning and Growth Management Requesting Adoption of an ORDINANCE Amending Ordinance No. 16,174, as Amended, an EXISTING SPECIAL USE for a MOTEL in a Class C-1 (General Commercial) District to Include ROOF TOP SIGNS for the Property Located at 2726 W. LAKE AVENUE, with Conditions.**  
\*\*\*\*

Council Member Spears moved to adopt an Ordinance amending Ordinance No. 16,174, as amended, an Existing Special Use for a motel in a Class C-1 (General Commercial) District to Include roof top signs for the property located at 2726 W. Lake Avenue, with conditions; seconded by Council Member Van Auken.

Council Member Spears said he had received complaints regarding the clientele that frequented this motel. He requested that the owners of the motel remind their clients the motel was located in a neighborhood and the neighborhood should be respected. He said he wanted this to go on record that this situation would be monitored in the future.

Motion to adopt ORDINANCE NO. 16,309 amending Ordinance No. 16,174, as amended, an Existing Special Use for a motel in a Class C-1 (General Commercial) District to Include roof top signs for the property located at 2726 W. Lake Avenue, with conditions, was approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears, Turner, Van Auken, Mayor Ardis – 11;

Nays: None.

**(08-376) REAPPOINTMENT by Mayor Jim Ardis of the DEPUTY LOCAL LIQUOR COMMISSIONER, with Request to Receive and File.**  
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**Council Member Eric Turner - Term Expires 5/04/2009**

Council Member Jacob said he would be abstaining from discussing and voting on this item because he was a liquor licensee and was prohibited from voting on liquor related matters by State Statute 235 ILCS 5/6-2.

Following a brief comment by Council Member Sandberg, Council Member Gulley moved to receive and file the reappointment by Mayor Jim Ardis of Council Member Eric Turner as Deputy Local Liquor Commissioner; seconded by Council Member Manning.

Approved by roll call vote.

Yeas: Gulley, Manning, Montelongo, Nichting, Spain, Spears, Turner, Van Auken, Mayor Ardis – 9;

Nays: Sandberg – 1;

Abstentions: Jacob – 1.

**(08-378) Communication from the Interim City Manager and Human Resources Department Requesting Approval to Enter Into a ONE-YEAR HEALTH CARE CONSULTANT SERVICES CONTRACT with GALLAGHER BENEFIT SERVICES, INC., for CONSULTING to the JOINT LABOR/MANAGEMENT HEALTH CARE COMMITTEE and the CITY COUNCIL, with an Option to Renew for the Second and Third Years, Upon Mutual Agreement by the Parties, at a Cost Not to Exceed \$96,000.00.**

Council Member Manning moved to defer this item until the August 12, 2008, Regular City Council Meeting; seconded by Council Member Van Auken.

Motion to defer this item until August 12, 2008, was approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears, Turner, Van Auken, Mayor Ardis – 11;

Nays: None.

**(08-379) Communication from the Interim City Manager and Director of Public Works Requesting to Concur with the Recommendation of a Selection Committee to Award the CONTRACT to the FARNSWORTH GROUP, INC., in an Amount Not to Exceed \$44,850.00, for a FEASIBILITY STUDY of a Connection Between Adams Street and Clark Street in the EAGLE VIEW TIF AREA.**

Council Member Gulley moved to concur with the recommendation of the Selection Committee to award the contract to the Farnsworth Group, Inc., in an amount not to exceed \$44,850.00, for a Feasibility Study of a connection between Adams Street and Clark Street in the Eagle View TIF Area; seconded by Council Member Turner.

Approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears, Turner, Van Auken, Mayor Ardis – 11;

Nays: None.

**(08-380) Communication from the Interim City Manager and Corporation Counsel Requesting Approval of the REDEVELOPMENT AGREEMENT with METHODIST HEALTH SERVICES CORPORATION, and Authorizing the Interim City Manager to Execute the Document.**

Council Member Van Auken moved to approve the Redevelopment Agreement with Methodist Health Services Corporation, and authorize the Interim City Manager to execute the document; seconded by Council Member Spain.

Council Member Van Auken said the proposed agreement addressed complex issues relating to encroachments, right-of-ways, and over-head walkways created by the Public Works' Engineering Team and the Planning and Growth Department's Staff. She commended them for finding creative solutions for the Medical Center and the City. She pointed out there was a park located at the end of Randolph where it joined Hamilton Boulevard and Methodist Medical Center had agreed for the neighborhood to retain ownership of that property and funds were being set aside for re-landscaping and to maintain the area as a neighborhood park. She said one of the neighbors had come forward to construct a Chinese pavilion for the park as a memorial for their family's long history in the neighborhood.

Council Member Sandberg expressed concern regarding the adverse effects the "improvements" would have on public transportation and access to the West and Center Bluffs. He said he would not be supporting the motion.

Motion to approve the Redevelopment Agreement with Methodist Health Services Corporation, and authorize the Interim City Manager to execute the document was approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Spain, Spears, Turner, Van Auken, Mayor Ardis – 10;

Nays: Sandberg - 1.

**(08-381) Communication from the Interim City Manager and Director of Economic Development Requesting to Direct Staff to Commence the Process to EXPAND the City of Peoria ENTERPRISE ZONE for Specified Properties Zoned Commercial and Office within the Fourth District Along STERLING AVENUE, from Forrest Hill to Glen, and Including a Parcel in GLEN HOLLOW SHOPPING CENTER, and the Corner of FORREST HILL and GALE; and in the Second District Specified Properties Along UNIVERSITY and DRIES LANE from Forrest Hill to War Memorial Drive.**

Director of Economic Development Craig Hullinger distributed a replacement map to all members of the City Council.

Council Member Spears moved to direct the Staff to commence the process to Expand the City of Peoria Enterprise Zone for specified properties zoned Commercial and Office within the Fourth District Along Sterling Avenue, from Forrest Hill to Glen, and Including a Parcel in Glen Hollow Shopping Center, and the corner of Forrest Hill and Gale; and in the Second District specified properties along University and Dries Lane from Forrest Hill to War Memorial Drive, as amended; seconded by Council Member Van Auken.

In discussion with Council Member Sandberg, Corporation Counsel Randy Ray stated, if there was legislation extending the Enterprise Zone, those Enterprise Zone benefits would continue unless the Council altered the benefits.



Council Member Van Auken said the areas that would be covered were areas that were important to the surrounding neighborhood, particularly older neighborhoods, to make sure there were incentives for those who invested in the older business neighborhoods to remain in the neighborhoods.

Motion to direct the Staff to commence the process to Expand the City of Peoria Enterprise Zone for specified properties zoned Commercial and Office within the Fourth District Along Sterling Avenue, from Forrest Hill to Glen, and Including a Parcel in Glen Hollow Shopping Center, and the corner of Forrest Hill and Gale; and in the Second District specified properties along University and Dries Lane from Forrest Hill to War Memorial Drive, as amended, was approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Spain, Spears, Turner, Van Auken, Mayor Ardis – 10;

Nays: Sandberg - 1.

**(08-382) Communication from the Interim City Manager and Director of Planning and Growth Management Requesting to Concur with the Recommendation from the Zoning Commission to CHANGE the MEETING TIME for the ZONING COMMISSION to 3:00 P.M. on a Trial Basis for SIX MONTHS. (Refer to 07-561)**

Council Member Van Auken moved to concur with the recommendation from the Zoning Commission to change the meeting time for the Zoning Commission to 3:00 P.M. on a trial basis for six months; seconded by Council Member Nichting.

Council Member Van Auken stated she was pleased the trial of moving the meeting to 6:00 P.M. had been successful. She said it was an opportunity for more citizens to attend the meetings. She stated she felt more of the City's commissions needed to be flexible and understand many of the public were not available in the middle of a work day. She commended the Commission on their compromise of changing the time to 3:00 P.M.

Council Member Manning said he felt the 6:00 P.M. time provided the greatest opportunity for citizens to attend the meetings and give their opinions. He said he felt it was important for the Zoning Commission to maintain the 6:00 P.M. time for the citizens.

Motion to concur with the recommendation from the Zoning Commission to change the meeting time for the Zoning Commission to 3:00 P.M. on a trial basis for six months was approved by roll call vote.

Yeas: Gulley, Jacob, Montelongo, Nichting, Spain, Spears, Turner, Van Auken – 8;

Nays: Manning, Sandberg, Mayor Ardis - 3.

**(08-383) Communication from the Interim City Manager and Corporation Counsel Requesting Adoption of an ORDINANCE Amending CHAPTER 3 of the Code of the City of Peoria Pertaining to the EXPANSION of the SUBCLASS 1 (4:00 A.M.) LIQUOR LICENSE DISTRICT on a Temporary, Experimental Basis Until October 23, 2008.**

Council Member Jacob said he would be abstaining from discussing and voting on this item because he was a liquor licensee and was prohibited from voting on liquor related matters by State Statute 235 ILCS 5/6-2.

Council Member Gulley moved to adopt an Ordinance amending Chapter 3 of the Code of the City of Peoria pertaining to the expansion of the Subclass 1 (4:00 A.M.) Liquor License District on a temporary, experimental basis until October 23, 2008; seconded by Council Member Turner.

In discussion with Council Member Nichting regarding questions pertaining to the Police Department's position on this expansion, Assistant Police Chief Phil Korem stated the Police Department supported the recommendation at this time.

In further discussion with Council Member Spain regarding the Police Department's initial concern regarding the expansion, Assistant Police Chief Korem said the Police Department still had concerns, but it had been demonstrated that the area needed to be expanded to handle the higher level of business that had been experienced. He said the expansion would be temporary and would allow time for the license holder, as well as the Police Department, to evaluate this situations that may occur.

Council Member Sandberg said he had been contacted by citizens who had complained about parking problems and complaints of excessive litter in the current area. He indicated he was concerned about quality of life issues and how an expansion of the 4:00 A.M. Liquor District would impact the area. He also questioned how this situation would be evaluated in the future. He expressed further concern that he felt there was inconsistencies in decisions regarding the granting of site approvals for liquor licenses in the area.

In discussion with Mayor Ardis, Assistant Police Chief Korem confirmed the Police Department would be able to cover the areas that were included in the 4:00 A.M. Liquor District expansion. Mayor Ardis added the City had nine months' experience with the first expansion of the 4:00 A.M. Liquor District and the City already had the opportunity to monitor these activities and response times to the area. He also stated, if problems started occurring with the trial locations, the City would have the right to revoke either or both the 4:00 A.M. licenses at any time and would not have to wait until October 23<sup>rd</sup>.

In discussion with Council Member Van Auken regarding trash and litter complaints by some of the surrounding property owners, Code Enforcement Manager Linda Lard said the City would increase enforcement in the area, specifically on Monday mornings.

Assistant Police Chief Korem said the first expansion involved Club Apollo and the Police Department was interested to determine if issuing a second 4:00 A.M. Liquor License in the area would reduce the number of people congregating outside Club Apollo, who were unable to be admitted due to capacity issues. He said the Police Department would be monitoring the calls to determine if the number of calls would be reduced by a second establishment being opened.

Council Member Spain said he would vote in support of the motion. He suggested that there be coordination between the Police Department and Code Enforcement to address all the quality of life issues.

Council Member Nichting expressed concern that some of those people not being admitted into Club Apollo were under the age of 21 and he said this situation would continue to be a problem even if a second 4:00 A.M. Liquor License was granted for the area.

Motion to adopt ORDINANCE NO. 16,310 amending Chapter 3 of the Code of the City of Peoria pertaining to the expansion of the Subclass 1 (4:00 A.M.) Liquor License District on a temporary, experimental basis until October 23, 2008, was approved by roll call vote.

Yeas: Gulley, Manning, Montelongo, Nichting, Spain, Spears, Turner, Van Auken,  
Mayor Ardis – 9;

Nays: Sandberg - 1;

Abstentions: Jacob - 1.

**(08-384) Communication from the Interim City Manager and Director of Public Works Requesting Adoption of the Recommended CHANGES to the SNOW RESPONSE PROGRAM which Include Adjusting Routes, Modifying Staffing Levels, and Accelerating the Truck Replacement Program.**

Director of Public Works Dave Barber gave a presentation regarding the Snow Removal Program Update. He provided a review of snow routes, staffing, equipment, a summary of the 2007-2008 snow season and what was proposed for 2007 and 2008. He recommended increasing the number of snow routes from 25 to 26, eliminating secondary routes to be able for the plows to enter neighborhoods quicker, and reducing storm response to storm events under twelve inches to twelve to eighteen hours. He discussed staffing levels, which included a recommendation to reduce the use of temporary workers, and he stated the costs involved would increase by \$225,800. He also discussed the need for truck replacement and the need to increase the annual allocations for trucks to \$642,200 in 2009.

Council Member Spears said he felt this information should have been included in the preliminary budget that was presented to the Council.

Director Barber said he planned to include these newly proposed expenditures as exceptions in the 2009 budget process.

Council Member Van Auken moved to receive and file the Snow Response Program presentation; seconded by Council Member Montelongo.

Motion to receive and file the Snow Response Program presentation was approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears, Turner, Van Auken, Mayor Ardis – 11;

Nays: None.

Council Member Van Auken moved to approve the revisions to the Snow Response Program, but would not be contingent on the Council's approving the staffing or additional purchase of equipment later in the Budget process; seconded by Council Member Montelongo.

Discussion was held regarding the blue routes and other route changes.

Council Member Spears suggested that the motion regarding approval of the revisions should be deferred until the Council could review the revised maps to better understand the changes proposed.

Council Member Spears suggested that an explanation be provided to the taxpayers regarding additional costs that Director Barber proposed related to the updated Snow Response Program at a public meeting. He stated he felt the taxpayers should be informed as to what this increase would mean in additional costs on their tax bills.

In discussion with Council Member Sandberg regarding the blue routes in the older portions of the City, what the objective set of criteria regarded, and why the routes were being changed, Director Barber said he would provide the Council with a copy of the revised maps and he felt the Council would be able to understand more clearly what was being proposed.

Council Member Jacob said a ten-year capital budget for rolling stock like the replacement of trucks was often used by businesses who had trucking.

Director Barber said there had been budget difficulties several years ago, and since that time, requests from individual departments were prioritized, but something very similar to Council Member Jacob's suggestion was being developed to determine the length of the useful life of a vehicle, when it should be traded in, and what the replacement value would be. He said this list was also being developed for all vehicles in the fleet.

Council Member Jacob said, if the City had a ten-year capital budget for truck replacement and there was the fiscal discipline, it would benefit the City long term.

Director Barber said he agreed and this was what he was working toward. He further stated newer fleet had warranties, which would reduce repair costs for the City.

Council Member Spears moved for a substitute motion to defer the approval of revisions to the Snow Response Program routes until the August 12, 2008, Regular City Council Meeting; seconded by Council Member Spain.

Substitute motion to defer the approval of revisions to the Snow Response Program routes until August 12, 2008, was approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears, Turner, Van Auken, Mayor Ardis – 11;

Nays: None.

#### **UNFINISHED BUSINESS**

**(08-013D) Communication from the Interim City Manager and Director of Planning and Growth Management Requesting Adoption of an ORDINANCE Annexing Territory Contiguous to the City of Peoria for Property Located at the Southwest Corner of WILHELM ROAD and ILLINOIS ROUTE 40, Identified as \*Parcel Number 09-29-326-002, with a Temporary Address of 1500 W. WILHELM ROAD.**

\*Director of Planning and Growth Management Pat Landes distributed a new communication to all members of the Council changing the Parcel Numbers from those listed above to just Parcel Number 09-29-326-002. Note: Parcel Numbers 09-29-352-012, 09-29-352-008, 09-29-376-004, 09-29-376-005, 09-29-376-006, 09-29-376-009, and 09-29-376-010 were deleted.

Council Member Nichting moved to adopt the Ordinance, as amended, annexing territory contiguous to the City of Peoria for property located at the southwest corner of Wilhelm Road and Illinois Route 40, identified as Parcel Number 09-29-326-002, with a Temporary Address of 1500 W. Wilhelm Road; seconded by Council Member Turner.

ORDINANCE NO. 16,311 was approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears, Turner, Van Auken, Mayor Ardis – 11;

Nays: None.

**(08-190) Communication from the Interim City Manager and Corporation Counsel Requesting Approval of the RESOLUTION Authorizing SETTLEMENT of Case No. 06-1187 in the United States District Court for Central District of Illinois and Other Matters Pertaining to BRIMSTONE STEAK, INC., BIG BAD WOLF, INC., and ELLIOTT'S BBW, INC., Which Authorizes SETTLEMENT of All Matters Regarding BRIMSTONE STEAK, INC., BIG BAD WOLF, INC., and ELLIOTT'S BBW, INC., to Include the Granting of a CLASS A (Tavern) LIQUOR LICENSE with a SUBCLASS 1A (2:00 A.M. Closing), and SUBCLASS 2 (Live Entertainment) SITE APPROVAL for 7807 NORTH UNIVERSITY and PAYMENT of \$50,000.00.**

Council Member Sandberg said he would be abstaining from discussion and voting on this item due to a professional relationship with the Petitioner.

Council Member Jacob said he would be abstaining from discussion and voting on this item because he was a liquor licensee and was prohibited from voting on liquor related matters by State Statute 235 ILCS 5/6-2.

Corporation Counsel Randy Ray said there was pending litigation and there had been mediation, and the mediation resulted in the proposed settlement. He said the City's outside Counsel had recommended the proposed settlement and Federal Magistrate Judge Cudmore had recommended the settlement. He said the settlement would involve a Class A (Tavern) Liquor License for the north portion of the property, there would be no changes allowed to that liquor license to be applied for ten years, nor could the south portion of the property apply for a liquor license during that ten-year period. He stated the City would also pay \$50,000.

Council Member Van Auken moved to approve the Resolution authorizing settlement of Case No. 06-1187 in the United States District Court for Central District of Illinois and Other Matters Pertaining to Brimstone Steak, Inc., Big Bad Wolf, Inc., and Elliott's BBW, Inc., which authorizes settlement of all matters regarding Brimstone Steak, Inc., Big Bad Wolf, Inc., and Elliott's BBW, Inc., to include the granting of a Class A (Tavern) Liquor License with a Subclass 1A (2:00 A.M. Closing), and Subclass 2 (Live Entertainment) Site Approval for 7807 North University and payment of \$50,000.00; seconded by Council Member Manning.

Council Member Nichting moved to grant Privilege of the Floor to those who wished to address this issue; seconded by Council Member Turner.

Motion to grant Privilege of the Floor to those who wished to address this issue was approved by roll call vote.

Yeas: Gulley, Manning, Montelongo, Nichting, Spain, Spears, Turner, Mayor Ardis – 8;

Nays: Van Auken – 1

Abstention: Jacob, Sandberg - 2.

Council Member Van Auken requested information regarding the likely outcome for the City, if this situation would proceed.

Corporation Counsel Randy Ray said, if the proposed settlement was not approved, the City could spend \$50,000 on Counsel, and then it could eventually cost the City five times as much.

Attorney Paul Keller of Ancel, Glink, Diamond, Bush, Dicianni, & Krafthefer in Chicago, outside Counsel for the City, said the responsible recommendation would be for the Council to vote to settle this matter at this time for \$50,000. He provided a brief history of the Elliott's property located at 7807 N. University. He explained there was a nude dancing cabaret in the north half of the building, which did not at this time have a liquor license, and a diner was located in the south half of the building. He stated the owners applied for a liquor license for the south half of the building, but site approval was denied by the City. He provided further information regarding the litigation that followed and eventually the City agreed to mediation. He said there were several offers made and counter offers, but agreement was not reached. He said Elliott's lowered their demand and the settlement agreement that was being recommended was for the City to approve a Class A (Tavern) Liquor License for the cabaret, but no liquor license would be granted to the south portion of the building, and the City would pay \$50,000 in attorney fees.

Attorney Keller said he understood this was a sensitive issue for the Council, but he urged the Council to give careful consideration to the economic and financial aspects. He said Elliott's had requested a jury trial on this, but if litigation continued, the costs relating to a jury decision would be much more than \$50,000 even if the City prevailed. He stated, if the City lost the case, the City would be liable for their own attorney's fees, Elliott's attorneys' fees, and would be required by the jury that the City would have to pay damages for the violation of their constitutional rights. He explained the City had already made a policy decision that liquor licenses and adult entertainment establishments were allowed and denial of a site approval for a Class A license would be viewed by the Court as being arbitrary and capricious without any effectual support.

In discussion with Council Member Van Auken, Attorney Keller confirmed that it was likely that the City would lose and costs could reach \$250,000, and the City would still be required to grant a liquor license.

In discussion, Council Member Nichting confirmed that the settlement agreement was designed for risk avoidance. He expressed concern that this situation was created by a former Interim City Manager and former Director of Planning and Growth Management, who were no longer employed with the City, that allowed for the division and split of land that was inconsistent with the City's Ordinance. He said an angle was drawn on the property that was inconsistent with the Planning Department's own rules.

Attorney Keller stated the settlement agreement would not exempt Elliott's from any of the usual rules and regulations governing a liquor license. He said, if there were any violations of the Liquor Code, Elliott's would be treated like any other any liquor licensee in that regard and would be subject to the same penalties.

Hearing no objections, Mayor Ardis granted the Privilege of the Floor to those who wished to address this issue.

Ms. Sandra Fritz, a Peoria resident, urged the Council to deny a liquor license for Elliott's due to the harmful effects it would have on the surrounding neighborhoods.

Council Member Turner said he was not willing to gamble with taxpayers' money, especially at a time when there were budget concerns for the City and the State. He said he had concerns regarding this issue and had not planned to support a liquor license at this location with the existing adult activities. He said this Council had been placed in an unfortunate position, but he said he would support the motion because he felt risk avoidance was important.

Mayor Ardis said this was a painful decision for the City Council. He said he had stood against this from day one and he expressed concern that former Interim City Manager Bern Ewert and former Director of Planning and Growth Management Wayne Anthony had allowed this situation to occur. He said at least, under the settlement, young people under the age of 21 would no longer be allowed in the establishment, but he still expressed his disappointment with the situation. He said he did not feel there were any other options for the Council.

Motion to approve RESOLUTION NO. 08-190 authorizing settlement of Case No. 06-1187 in the United States District Court for Central District of Illinois and Other Matters Pertaining to Brimstone Steak, Inc., Big Bad Wolf, Inc., and Elliott's BBW, Inc., which authorizes settlement of all matters regarding Brimstone Steak, Inc., Big Bad Wolf, Inc., and Elliott's BBW, Inc., to include the granting of a Class A (Tavern) Liquor License with a Subclass 1A (2:00 A.M. Closing), and Subclass 2 (Live Entertainment) Site Approval for 7807 North University and payment of \$50,000.00 was approved by roll call vote.

Yeas: Gulley, Manning, Montelongo, Spain, Spears, Turner, Van Auken, Mayor Ardis – 8;

Nays: Nichting - 1;

Abstentions: Jacob, Sandberg - 2.

- (08-197) Communication from the Interim City Manager and Director of Planning and Growth Management Requesting to Concur with the Unanimous Recommendation from the Planning Commission and Staff to DENY a RESOLUTION Approving the FIRST AMENDMENT to the ANNEXATION AGREEMENT for the SMART PROPERTY, a Residential Development Located West of Koerner Road, North of Illinois Route 8 (Southport Road) and South of Interstate 74 with a Previous Address of 6627 SOUTHPORT ROAD, Identified as Parcel Numbers 13-22-300-006, 13-22-300-007, and 13-22-300-008, all Located Within One and One-Half Miles of the City of Peoria.**

Council Member Manning moved to defer this item until the August 26, 2008, Regular City Council Meeting; seconded by Council Member Van Auken.

Motion to defer this item until August 26, 2008, was approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears, Turner, Van Auken, Mayor Ardis – 11;

Nays: None.

- (08-311) Communication from the Interim City Manager and Director of Planning and Growth Management with Recommendation from the Zoning Commission to ADOPT or with Recommendation from City Staff to DENY an ORDINANCE Amending the LAND DEVELOPMENT CODE of the City of Peoria by REZONING Property Located at 2205, 2209, and 2113 N. UNIVERSITY STREET from the Present Class CN (Neighborhood Commercial) District and R-3 (Single-Family Residential) District to a Class CG (General Commercial) District.**

Council Member Van Auken moved to Table this item; seconded by Council Member Gulley.

Motion to Table this item was approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears, Turner, Van Auken, Mayor Ardis – 11;

Nays: None.

- (08-322) Communication from the Interim City Manager and Director of Public Works Requesting Approval of the LOW BID of KRUMHOLZ BROTHERS LANDSCAPING and Awarding the CONTRACT, in the Amount of \$45,354.00 for the SHAG BARK CIRCLE DRAINAGE IMPROVEMENT PROJECT.**

Council Member Turner moved to approve the low bid of Krumholz Brothers Landscaping and to award the contract, in the amount of \$45,354.00, for the Shag Bark Circle Drainage Improvement Project; seconded by Council Member Gulley.

Council Member Gulley requested that Staff monitor this project closely as self-performed project to meet the prevailing wage requirements.

Approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Turner, Mayor Ardis – 9;

Nays: Spears, Van Auken - 2.

**(08-331) Communication from the Interim City Manager and Director of Planning and Growth Management Requesting the Following:**

**A. REMOVE FROM THE TABLE Item Number 08-331,**

Council Member Van Auken moved to remove Item No. 08-331 from the Table; seconded by Council Member Gulley.

Motion to remove Item No. 08-331 from the Table was approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears, Turner, Van Auken, Mayor Ardis – 11;

Nays: None.

**B. TAKE ACTION on the Request to Provide \$76,125.00 in CHDO FUNDS for the Construction of One New, Affordable, Single-Family Owner-Occupied House Located at 1707 N.E. MADISON AVENUE. (New Communication)**

Council Member Gulley moved to provide \$76,125.00 in CHDO funds for the construction of one new, affordable, single-family owner-occupied house located at 1707 N. E. Madison Avenue; seconded by Council Member Van Auken.

Approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears, Turner, Van Auken, Mayor Ardis – 11;

Nays: None.

**NEW BUSINESS**

**ANNOUNCEMENT Regarding the JULY 25, 2008, BILTMORE NEIGHBORHOOD ASSOCIATION ICE CREAM SOCIAL and the PEORIA MUNICIPAL BAND CONCERT**

Council Member Van Auken announced that the Peoria Municipal Band would be holding an outdoor concert in front of the St. Philomena Church on Friday evening, July 25, 2008. She said, prior to the concert, the Biltmore Neighborhood Association would be holding an ice cream social. She invited Council Members and the public to attend.

**REPORT BACK Requested Regarding the SNOW PLAN**

Council Member Gulley requested a report back regarding the Snow Plan to include even/odd parking on streets so streets could be cleaned, why curb-to-curb cleaning was needed on wider streets when other streets had yet to be cleaned, and the notification system that lifted the parking bans should be improved. He also suggested that parking tickets should not be issued when the streets had been cleaned curb-to-curb, but before the parking ban had been lifted.

**CITIZEN REQUESTS TO ADDRESS THE COUNCIL**

There were no citizens who came forward to address the Council at this meeting.

**EXECUTIVE SESSION**

It was determined that an Executive Session was not needed.



**ADJOURNMENT**

Council Member Jacob moved to adjourn the Regular City Council Meeting; seconded by Council Member Spears.

Approved by viva voce vote.

The Regular City Council Meeting adjourned at 9:09 P.M.

bb

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Mary L. Haynes, MMC, City Clerk  
City of Peoria, Illinois

By:

\_\_\_\_\_  
Beth Ball, Chief Deputy City Clerk