Mayor Wayne Jett called the regularly scheduled March 19, 2018 meeting of the McHenry City Council to order at 7:00 pm in the McHenry City Council Chambers, 333 S. Green Street, McHenry, IL. In attendance were the following Councilmembers: Condon, Devine, Mihevc, Curry, Schaefer, Glab, and Santi. Also in attendance: City Administrator Morefield, Director of Parks and Recreation Hobson, Director of Economic Development Martin, Chief of Police Birk, Director of Public Works Schmitt, Director of Community Development Polerecky, Director of Finance Lynch, City Attorney David McArdle, ZRFM, and Deputy Clerk Geraghty.

PUBLIC COMMENT

Attorney Tom Zanck of Zanck, Coen, Wright & Saladin. Mr. Zanck who represents Meyer Material, apologized to the City Council stating that had they known the public hearing on March 5th was to proceed, he and his client would have appeared and that they look forward to attending the April 2 and April 16 Council meetings.

Mr. Nicholas Finia, 6805 Burning Tree Drive, McHenry, IL. Mr. Finia read aloud a letter from Mr. Scott Wolff, 6519 Burning Tree Circle, contesting the proposed Meyer Materials Annexation Amendment and his desire for the Council to reduce the length of the proposed term of the agreement.

Mr. Richard Loesch, 6310 Chickaloon, McHenry, IL. Mr. Loesch announced he is a Board Member of the Glacier Ridge Homeowners Association and stated that it is evident to him that the proposed extension of the Meyer Material annexation is closer to the homes and the crusher was also been moved. Mr. Loesch expressed his desire for the Council to limit the term of the amendment from 14 years to 10.

Mayor Jett thanked everyone for their comments.

CONSENT AGENDA

A. Professional Services Contract with Baxter & Woodman, Inc. for Recreation Center Parking Lot Expansion in an amount not to exceed $36,275;
B. Professional Services Contract with Hampton, Lenzini & Renwick, Inc. for Bull Valley Road Multi Use Path Phase 1 Design Engineering Services in an amount not to exceed $104,087, (MCDOT @ 80% - $83,269.60; City of McHenry @ 20% - $20,817.40);
C. Rejection of all bids received for 2018 Municipal Mowing Program; Waive Advertising for Bids; and, Award of a three-year contract for the 2018 Municipal Mowing Program with a 20% performance bond and option to renew for an additional two years, to Clearview Landscape Construction of Harvard, IL for the amount of $3,545/week;
D. Resolution authorizing a budget amendment to the Developer Donations Fund for $86,556.40 for Miller Riverfront Park Boat Launch Paving and Lighting project;
award paving contract to Peter Baker & Son for $10,856.40; and award installation of lighting contract to Associated Electrical Contractors for $75,700;
F. Tenant Farm Lease Agreement with Charles Schaefer for 32.7 acres located at the southwest corner of Curran Road and Route 120 for a one year term for $500;
F. Renewal of tenant farm lease agreements with 1) James Finch for approx. 24.5 acres located off Curran Road (PIN 09-33-100-003) for an annual payment of $3,014; and 2) Kevin Bauer for an approx. 50-acre section of the Petersen Farm property for an annual payment of $9,100;
G. Resolution authorizing update of City of McHenry Official Zoning Map and Publication of a Notice of Zoning Map Update;
H. Parks Use/Facilities Permits;
I. January 29, 2018 Committee of the Whole minutes;
J. Issuance of Checks in the amount of $1,155,336.54; and
K. Payment of Bills in the amount of $778,627.76.

At Mayor Jett’s request, Consent Item 5-F was pulled from the Consent Agenda and would be voted as a separate item.

Motion by Alderwoman Condon, second by Alderman Curry, approving Consent Agenda Items A, B, C, D, E, G, H, I, J, and K.

Alderman Curry inquired about Item 5-C mowing contract stating he was concerned about the 20% performance bond that is no longer required and expressed concern about the city’s liability should an incident occur. Attorney McArdle stated liability is not covered in a performance bond. Performance bonds are a guarantee to make sure the job is completed as contracted.

Regarding Item 5-D, Alderman Glab asked for the balance of the Developer Donation Fund. Director Lynch reported the fund has a $1.1M balance.

Voting Aye: Condon, Curry, Devine, Glab, Mihev, Santi, Schaefer
Voting Nay: None
Absent: None
Motion carried.

Consent Item 5-F: Renewal of tenant farm lease agreements with 1) James Finch for approx. 24.5 acres located off Curran Road (PIN 09-33-100-003) for an annual payment of $3,014; and 2) Kevin Bauer for an approx. 50-acre section of the Petersen Farm property for an annual payment of $9,100.

Mayor Jett called on Director Hobson to explain why this item was pulled. Director Hobson stated the Bauer lease agreement was amended to reflect the new per acre rate of $173.25/acre for an annual total of $8,662.50. The Finch lease was not changed.
Alderman Schaefer asked how staff determines the per acre price. Director Hobson noted the price per acre for many of the city’s leases were inherited. When opportunities arise to raise the cost staff issues an RFP for a new tenant, which was done with the Petersen Ball Field Annex lease. Now that the Riverside Hollow and Petersen Ball Field Annex leases are not renewed, the city will, once again issue RFP’s to lease the land for an appropriate per acre price that conforms more closely with the average farmland cash rents in McHenry County. In addition, the various parcels have different soil conditions, which affects rent values.

Alderman Santi asked if the 14-acres omitted from the Bauer lease is kept for city use. Director Hobson stated it is not usually omitted. In the past, it was for a corn maze. This year, staff will be presenting a proposal for use of that land at a future Council meeting.

Alderman Curry asked if the Bauer lease represents an increase from last year and Director Hobson said no, the rent was frozen due to decreases in the price of corn, which is the reason why two tenant farmers chose not to renew their leases with the city. Mr. Bauer and Mr. Finch are long-term tenants with the city and staff recommends this is fair.

Alderman Curry noted the average land lease in the County is $212 per acre and asked if these properties are below average and Director Hobson said due to the size and yield, the answer is yes.

Alderman Schaefer made a motion, seconded by Alderman Santi to approve the renewal of tenant farm lease agreements with 1) James Finch for approx. 24.5 acres located off Curran Road (PIN 09-33-100-003) for an annual payment of $3,014; and 2) Kevin Bauer for an approx. 50-acre section of the Petersen Farm property for the amended annual payment of $8,662.50.

Voting Aye: Schaefer, Santi, Mihevc, Glab, Devine, Curry, Cordon
Voting Nay: None
Absent: None
Motion carried.

INDIVIDUAL ACTION ITEM AGENDA:

A. Motion to adopt an Ordinance Annexing the property located at 2907 W. Illinois Route 120, Property Index Number 09-36-102-003.

Director Martin announced the owner of the property located at 2907 W. Illinois Route 120, has requested annexation to connect to the city’s sanitary sewer system.

Alderman Glab asked why the applicant is not connecting to the water service. Director Martin said connection to the water system would be impractical as the service is located behind the properties across Route 120. Alderman Glab asked if there was water available on the south side of Route 120. Director Martin said it is several hundred feet down the road.
Alderman Glah asked about the condition of the road in front of the property and Director Schmitt stated it is a city roadway.

Alderman Santi made a motion, seconded by Alderman Mihevc to adopt an Ordinance Annexing the property located at 2907 W. Illinois Route 120, Property Index Number 09-36-102-003.

Voting Aye: Santi, Mihevc, Schaefer, Glab, Devine, Curry, Condon
Voting Nay: None
Absent: None
Motion carried.

B. Adopt an Ordinance approving a Use Variance to allow a Tattoo Parlor at 3929 W. Main Street.

Director Martin stated the applicant is requesting a Use Variance to allow a Tattoo Parlor at 3929 W. Main Street is presented with the following conditions:

- The use variance shall expire and become null and void if the tattoo use ceases for a period of six consecutive months.
- There shall be no coverings, other than the exception below, of any kind placed over, on and/or adhered to the windows unless approved by staff.
- Any signage/window art shall be consistent with the applicant’s proposed business name “Crimson Peak” and/or the artwork, consistent with that submitted as part of the applicant’s public hearing application.
- The applicant shall not conduct any tattooing without proof of current State of Illinois/McHenry County Health Department of Health Licensure for Tattooing.

Alderman Santi stated he spoke to the applicant, Derek Zuenert, prior to the meeting about the history and concern about the type of businesses located on Main Street noting a tattoo parlor was denied on Main Street and an alternate location was found for the business.

Alderwoman Condon asked how much of the business involved painting, prints, and clothing as referred to in the packet.

Mayor Jett invited the applicant Derek Zuenert to the address the Council.

Mr. Zuenert stated he would be selling his original prints and t-shirts. Alderwoman Condon noted there was an art studio component also referred to in the supplement and Mr. Zuenert stated his business would also be an art gallery where people can view different forms of tattoos.
Alderwoman Condon said there has been opposition in the past from the Council regarding Tattoo Parlors however not on her part. She believes the body is another form of canvas. Woman of all ages are now getting tattoos and she urged everyone to dispel the image that tattoo parlors can be rough around the edges. Art comes in many forms and the city has a businessman who is willing to rent a vacant location on a downtown street. The success of the business is on the applicant not the city and we should provide young business people an opportunity to succeed.

Mr. Zuenert told the Council he has a substantial amount of support behind his business.

Alderman Glab stated the proposal is no different from the proposal that was denied several months ago and he has not changed his mind since that time. He stated that we have two tattoo parlors in town and would not support the proposal presented.

Alderman Curry said in his opinion since the other proposal that was presented in the past had not changed and that there are other locations in town that would be more suitable, he would not support the proposal.

Alderman Devine said he agreed with Alderwoman Condon and did not see a problem with approving the business at this location. Tattoos are no longer taboo and are accepted everywhere.

Mayor Jett opened the floor for public input.

Ms. Sky Christensen addressed the Council stating she is the applicant’s girlfriend. She stated this shop would not impact much of McHenry as it is by appointment only. There would not be foot traffic going in and out of the area. She added the space is worn, ceiling tiles are falling, carpet is dirty, and the walls need painting, which they are willing to finance and work to improve the space. She concluded by stating that Mr. Zuenert has a huge following in McHenry and creates beautiful art.

As there was no further public comment, Mayor Jett called for a motion.

Alderwoman Condon made a motion, second by Alderman Devine to adopt an Ordinance approving a Use Variance to allow a Tattoo Parlor at 3929 W. Main Street.

Alderwoman Condon reiterated her support for the shop and stated her concern about the judgements made regarding the type of customers who would patronize the shop.

Alderman Santi said he is comfortable with this type of business in town; his concern is the redevelopment of Main Street and the downtown areas.
Alderman Devine stated that he had been on the Council for one year and in that time, he has not seen any new businesses on Main Street and asked are we going to continue to hope and wait for something else to come in or are we going to give the applicant a chance.

Alderman Glab suggested the city determine how we compare to other communities regarding tattoo parlors.

Alderman Schaefer said from his standpoint, the Council’s personnel opinion is one thing however, their representation of the people is what he has always taken into consideration and obviously is a big part of this decision.

Voting Aye: Condon, Devine, Mihevc, Schaefer
Voting Nay: Curry, Glab, Santi
Absent: None
Motion carried.

C. Motion to adopt an Ordinance approving a Conditional Use Permit to allow an Open Sales Lot for the property located at 4719 West Elm Street.

Director Martin announced the Council is being asked to approve a Conditional Use Permit to allow an Open Sales Lot for the property located at 4719 West Elm Street. This is the southwest corner of Elm Street and Meadow Lan.

Alderman Santi noted the building must be built out and the lot paved in two years and Director Martin answered yes.

Alderman Santi asked if the temporary building would be connected to city water and sewer and Director Martin stated it must comply with all building codes.

Alderman Schaefer said he is in favor of the sale of hybrid vehicles however, the Planning and Zoning minutes stated they will also sell government and police vehicles.

Mayor Jett invited the applicant Mr. Yousef Dabbagh, to approach the podium to answer council’s questions.

Alderman Schaefer asked for the percentage of space the non-hybrid vehicles would be stored on the lot. Mr. Dabbagh stated there would only be about five or six out of 20 vehicles that would be on the lot. Alderman Schaefer asked other than non-hybrid vehicles what would we see on the property. Mr. Dabbagh said there would be some police vehicles but they would be 2015 or 2016 models in good shape.

Alderman Glab stated he previously met the applicant and was not worried about the type of vehicles that would be on the lot but that the two-year limit may be too strict
and would support imposing a five-year condition.

Alderwoman Condon said the lot is challenging and that this proposal will improve the area.

Alderman Santi asked the applicant if he had other locations. Mr. Dabbagh said he had other partners in Chicago with small lots with the same types of vehicles as they are in high demand with many fleet customers. The size of the lot for this business is not critical, only the type of vehicles available.

Alderman Curry said he would prefer to see the lot paved in two years. He also asked about which mobile building in the packet will be utilized and would it be landscaped. Mr. Dabbagh stated which unit he would be installing and assured the Council he would landscape the area.

Motion by Alderman Curry, second by Alderman Santi to adopt an Ordinance approving a Conditional Use Permit to allow an Open Sales Lot for the property located at 4719 West Elm Street with the following conditions:

- All requirements of the zoning ordinance (lighting, landscaping, setbacks, etc.) and building code are met with respect to the modular building, prior to receipt of full Certificate of Occupancy for a temporary building.
- Applicant must file building permit application for a new building and repave entire lot within five years of City Council approval, contemporaneously with the construction of the new building.

Voting Aye: Curry, Santi, Schaefer, Condon, Devine, Glab, Mihevc
Voting Nay: None
Absent: None
Motion carried.

D. Motion to adopt an Ordinance approving a Conditional Use Permit to allow the Outside Storage of Vehicles in conjunction with a towing business for the property located at 3014 W. Route 120.

Director Martin stated Council is being asked to consider a Conditional Use Permit to allow the Outside Storage of Vehicles in conjunction with a towing business for the property located at 3014 W. Route 120.

Alderman Glab asked if the original Conditional Use expired on this property. Director Martin said there was a conditional use but the storage was limited as to where it could be located and limited to the previous business. There was no legal conditional use as the use was grandfathered when the property was annexed to the city.
Alderman Schaefer said he was concerned about damaged and inoperable vehicles being stored on the property.

Mayor Jett asked the applicant, Mr. Rick Miller to address the Council. Mr. Miller stated the cars leaking oil will be cleaned before they are parked in the lot. If they are drastically leaking fluids, the vehicles will be drained inside the building and then stored outside.

Alderman Schaefer reported the previous business owner would park tow trucks and move cars in the middle of Route 120. Mr. Miller stated that would not be a problem with his business because the previous owner had more trucks than he and since this will be his second location, he will have only one or two trucks at the site at one time.

Alderman Curry asked if there was a time limit on how long an inoperable vehicle could be parked in the lot. Chief Birk addressed Alderman Curry’s concern and stated the Phoenix Towing has asked to be accepted on the Police towing list and that is why they wish to open a location in town. Most vehicles that are towed to a facility have an impound fee assessed by the city or there may be a hold on the vehicle associated with an arrest. Depending on the condition of the car, it is common that the owner will walk away from the vehicle and not claim the car or pay the bill. When this occurs, the Police Department must begin a junk vehicle certificate process, which can take 45-90 days to get the certificate to the towing company so they can sell it for scrap and remove it from their lot. Towing companies do not want vehicles on their lots for a long time as they usually have a limited amount of space and will have no place to tow the car.

Alderman Santi asked if there was access to the VFW property and Mr. Miller stated yes however, it is fenced and screening will be erected.

After further discussion, Director Martin stated the language in the supplement regarding the condition to prevent leaking vehicles from being stored outside was awkward and would be clarified to read that “all vehicles, which may potentially leak automobile fluids, shall be stored inside only.”

Motion by Alderman Santi, second by Alderman Condon to grant a Conditional Use Permit to allow the Outside Storage of Vehicles in conjunction with a towing business for the property located at 3014 W. Route 120 conditioned on the following:

- The property shall be cleared of any miscellaneous debris within 30 days of City Council approval and;
- There shall be no storage of anything other than vehicles which are directly-tied to the business on the property and;
- The outdoor storage area shall remain inaccessible to the general public and maintained so grass/weeds are not growing and vehicles stored in an orderly manner.
• All vehicles, which may potentially leak automobile fluids, shall be stored inside only.
• The fence shall be fitted with slats on all sides so the storage yard is not visible to the general public, within 30 days of City Council approval.
• The fence shall be repaired, so it is completely erect and upright and completely enclosed so there are no gaps, within 30 days of City Council approval.

E. Motion to adopt an Ordinance amending various sections of Municipal Code Chapter 4, Alcoholic Beverages, and Chapter 9 Devices, Coin-Operated.

Alderwoman Condon said the proposed amendment makes sense and she expressed her support.

Alderman Glab asked if a business closes mid-year are the license fees refunded and Mayor Jett answered no. Alderman Glab stated in his opinion he does not see why a viable business would not pay the full license fee.

Alderman Glab asked about the amount of the fee. City Administrator Morefield stated it depends on the type of license requested. Alderman Glab asked about a pouring license. Deputy Clerk Geraghty reported the type of license held for business with a full bar is a Class A license and the fee is $1,400 per year. Alderman Glab said the amount of good will this would create is worth the decrease in the fee.

Motion by Alderman Schaefer, second by Alderwoman Condon to adopt an Ordinance amending various sections of Municipal Code Chapter 4, Alcoholic Beverages, and Chapter 9 Devices, Coin-Operated.

Voting Aye: Schaefer, Condon, Curry, Devine, Glab, Mihevc, Santi
Voting Nay: None
Absent: None
Motion carried.

STAFF REPORTS

Director Schmitt announced the bi-annual Electronic Waste Curbside Disposal program organized by Prairieland Disposal on residents regular pickup day will begin next Monday.

Director Hobson thanked the city sponsors and everyone who helped organized the McHenry Shamrocks the Fox event.

Referring to Attorney Tom Zanck’s comments made at the beginning of the meeting regarding Meyer Material, City Attorney Mc Ardle apologized for not attending the March 5 meeting as he also thought the Public Hearing would be continued. And, before Meyer publishes another notice in the newspaper, he asked the Council if they were still committed to considering the proposal from Meyer Material. By a show of hands, the Council concurred to bring the matter
forward.

Attorney McArdle distributed a memorandum to the Council and asked for direction from the Council as to how they want this matter to proceed. The continued discussion and vote is scheduled for April 16 meeting. Staff would be grateful for as much direction as the Council can provide prior to the April 2 meeting. Draft ordinances will be presented to the Council on April 2nd.

Alderman Glab expressed his views on the proposed buffer to deflect some of the noise caused by the pit operations. Attorney McArdle stated this discussion should continue with Meyer present so that we can get some answers and they are aware of our concerns.

Alderman Glab asked staff to compare the price per ton paid to other communities with pit operations.

Alderman Condon stated she agreed with Alderman Glab’s comments and would like to know what other communities are paid per ton.

Alderman Curry stated the petitioner could have been at the March 5 meeting. The Council and the residents knew about it and they attended the meeting. Alderman Curry asked the Council to review the information submitted by City Administrator Morefield and Director Martin noting it does not come close to the issues raised by the residents.

The Council agreed to invite representatives from Meyer Material to the April 2 discussion.

**MAYOR AND CITY COUNCIL COMMENTS**

Mayor Jett announced the McHenry Shamrocks the Fox event was a huge success and he thanked Director Hobson, Superintendent Gorniak and the Parks Maintenance staff for all that they did to ensure the community was safe and the event was a success.

Alderman Schaefer agreed the event was a success, thanked the community and businesses for their support, and looks forward to next year’s event.

Alderman Condon announced that many of the events were family events and the amount of children in the area was phenomenal.

Alderman Glab suggested the family events start earlier next year.

Alderman Santi said regarding the Tattoo Parlor, a key element missing in the discussion was that it is our duty the building owners on Main Street offer a good product.

Alderman Glab suggested the city review its condemnation ordinances.
ADJOURNMENT

Motion by Alderwoman Condon, second by Alderman Santi to adjourn the meeting.

Voting Nay: None
Absent: None.
Motion Carried.

The meeting adjourned at 8:45 PM.

Mayor

Deputy City Clerk