REGULAR MEETING
April 2, 2018

Mayor Wayne Jett called the regularly scheduled April 2, 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: Mihevc, Glab, Schaefer, Condon, Devine, Curry, and Santi. Also in attendance: 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 Mc Ardle, and Deputy Clerk Geraghty.

PUBLIC COMMENT

James Molnar, South Carolina announced he was a retired McHenry Police Officer and is an active member of the Police Ministry in South Carolina. Mr. Molnar presented 100 wristbands representing the Brotherhood of the Badge to Police Chief Birk for distribution to members of the Police Department.

Mary Nadar, 1213 Matanuska, Glacier Ridge Subdivision addressed the Council regarding her concerns about the Meyer Material Co. reclamation plan, requested a deadline when mining would be completed at the south end of the gravel pit, move equipment from the north side of the gravel pit, and grant a four year extension rather than 10 years as proposed.

Jody Bork, 7209 Burning Tree Drive, Burning Tree Subdivision address the Council regarding her concern about air quality and possible harmful emissions produced by the gravel pit operations near her home and the effect this may have on her asthmatic daughter. Ms. Bork asked for air quality studies to be performed.

Nick Finia, 6805 Burning Tree Drive, Burning Tree Subdivision expressed his concern about the noise, dust and harmful emissions produced by the gravel pit operations. Mr. Finia distributed copies of a petition to the Council that was signed by 35 neighbors a verring their opposition to the mining operations near their homes.

Jay Mathiesen, 6712 Burning Tree Court, Burning Tree Subdivision expressed his concern and opposition to the extension of the Meyer Material annexation agreement.

PROCLAMATION

Mayor Jett read aloud a Proclamation declaring April 27, 2018 as National Arbor Day in the City of McHenry and invited city residents to a ceremony hosted by City Forester Mike Harper on April 27, 2018 at 3:30 PM in the City Council Chambers to celebrate this day.

CONSENT AGENDA

A. Appointment of Mary Kay Welter to the Landmark Commission to fill the vacant term expiring on April 30, 2020;
B. Award Bid for Construction of the Recreation Center Parking Lot Expansion project to Chicagoland Paving, Inc., for a project total of $474,900;
C. Award 2018 Hot Mix Asphalt Materials Contract to Curran Materials Company of McHenry, IL in the amount of $38.50/ton for HMA Surface Mixture and $36.50/ton for HMA Binder Mixture;
D. Special Event Liquor License from The Church of Holy Apostles for the Catholic Assistance Mission Help & Hope for Haiti fundraiser on April 21, 2018;
E. Parks Use/Facilities Permits;
F. March 5, 2018 City Council meeting minutes;
G. March 19, 2018 City Council meeting minutes; and
H. Payment of Bills in the amount of $376,990.06.

Motion by Alderwoman Condon, second by Alderman Schaefer approving the Consent Agenda as presented.

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

INDIVIDUAL ACTION ITEM AGENDA

A. Motion to approve transfer of the Class A-19 Liquor License issued to Buddyz McHenry, Inc. d/b/a Buddyz Pizza to Wade’s Wave, Inc. d/b/a Buddyz Pizza located at 1138 N. Green Street.

Motion by Alderman Santi, second by Alderman Glab to approve transfer of the Class A-19 Liquor License issued to Buddyz McHenry, Inc. d/b/a Buddyz Pizza to Wade’s Wave, Inc. d/b/a Buddyz Pizza located at 1138 N. Green Street.

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

B. Motion to adopt an Ordinance granting a Conditional Use Permit to allow Assembly Use, Outdoor Seating, and Indoor Entertainment for Utopian Roast LLC d/b/a Hidden Pearl Café located at 1252-1254 N. Green Street; and an Ordinance authorizing the Mayor’s execution of a Revocable License Agreement with Utopian Roast LLC to utilize .45 acres of city-owned property located at 1246 N. Green Street aka Neumann Park for outdoor seating and entertainment purposes.

Mayor Jett asked Director Martin to present this item to the Council. Director Martin provided a brief summary of the requested action and announced a copy of the
proposed license agreement had been slightly revised and was placed at their seats.

Alderman Glab expressed his concerns about the proposed business utilizing the city sidewalk to serve liquor.

Mayor Jett invited the applicant Dan Kearns to the podium.

Mr. Kearns stated the proposed use in front of his building would be similar to the McHenry Theater.

Alderman Glab stated this area would require fencing because of alcohol service and he would not support blocking a public sidewalk on a permanent basis especially from wheelchair access and during community events.

Alderman Glab also expressed concern about the proposed use of Neumann Park stating the city should not be locked in to a 12-month agreement.

Alderman Condon stated she was in favor of the proposal including the use of Neumann Park and asked if DC Cobbs was granted a similar outdoor use. Director Martin answered if the use were approved the applicant would be required to follow guidelines as detailed in the proposed license agreement.

Alderman Condon asked if the outdoor use could be discontinued during special community events and Director Martin answered yes. Alderman Condon restated she would support the proposal with the options and stated guidelines.

Mr. Kearns stated the sidewalk in front of his building has to be leveled similar to the front of the theater. Handicapped accessibility would be accommodated and gates would be installed at each end; the gates could also be left opened and the use discontinued during special events. He also stated he would welcome any use of the park near his business, as it has always been his intention to draw people to the park. He intends to install a door with a walkway connecting his business to the park.

Alderman Glab restated his reservations about infringing on a public walkway.

Alderman Schaefer said there have been significant changes to original proposal of the business and asked if it should be sent back to the Planning and Zoning Commission. Director Martin said it was possible but did not recommend it.

Alderman Santi asked Mr. Kearns how long had he been working on the building and Mr. Kearns answered since April 15, 2017, building plans were approved in September and to date had invested $125,000.

Alderman Santi asked why Mr. Kearns kept changing the building plans and suggested
he complete the indoor renovations prior to the outdoor details. Mr. Kearns stated he would be done with the interior renovations in five weeks.

Alderman Santi asked Mr. Kearns if he owned the building and Mr. Kearns reported he has a land contract for the term of three years.

Alderman Schaefer noted DC Cobbs has tables and serves alcohol on the side of the building. Director Polerecky stated tables are also permitted in the area in front of the business between the front of the building and the sidewalk railing that will be setup this summer. He added the sidewalk in front of Mr. Kearns’s building has to be raised about seven feet from the building, which would leave approximately seven feet of actual sidewalk on Green Street. It is the same idea as the theater. The raised platform will be one or two steps off the front of the building with a ramp coming from the north to allow wheelchair accessibility from the north. As you move south on Green Street there will be one or two steps with a raised platform and a railing similar to DC Cobbs. Alderman Schaefer asked if the amount of space at DC Cobbs was greater than the 14-feet in this proposal and Director Polerecky said they are approximately the same; a minimum of five feet of sidewalk is code.

Alderman Santi requested a walkthrough of the building and Mr. Kearns invited all Council members to stop by anytime adding there will be no progress made to the interior renovations until a decision was reached this evening.

Alderman Curry asked if a railing would be installed along the sidewalk with our without outside seating and Director Polerecky said yes, a 30” tall railing was required with a step and handicapped ramp a minimum of 36” wide regardless of the outcome this evening. This became a requirement when the front door was altered. Mr. Kearns is planning to improve the front exterior with a new front door. Regardless of outdoor seating, the ramp would be installed. The proposal is to widen the area to allow a small table to serve coffee and other beverages.

Alderman Curry asked if outdoor seating was not permitted, would the sidewalk area against the building still be raised and Director Polerecky answered yes. Alderman Curry added that a few steps would be required and Director Polerecky said a ramp for handicapped accessibility would be required. With only one or two steps, a railing is not required but is recommended.

Alderman Glab suggested the handicapped accessibility be installed on the side of the building verses the front. Director Polerecky said if the walkway were approved this could be possible.

Alderman Schaefer asked if the brick design in Neumann Park would be continued in the proposed new walkway. Director Martin stated the plans include continuity.
Alderman Santi asked if the door on the south side was a required exit to meet the Fire Code for occupancy. Director Polerecky answered yes; it is required due to occupancy requirements.

Alderman Santi stated if the other Councilmembers agreed, he would be willing to agree to the proposal with just the door on the south side and the patio to be discussed and voted upon at a later date. He then asked about the front sidewalk. Director Polerecky stated there is a requirement for handicapped accessibility access to the building that would require not only a door but also a 3x3 pad with a walkway to another walkway so you are making improvements somewhere in the park with a 36" pad so a wheelchair does not have to go through the grass. Mr. Kearns asked if this could be constructed with brick and Director Polerecky answered yes.

City Administrator Morefield stated the door on the south side that opens into the park was a Fire Code requirement and therefore is it correct to assume a certificate of occupancy would not be issued until the door is installed and Director Polerecky answered yes.

Alderman Santi clarified that he had concerns about the front renovations however he was willing to agree to the door on the south side, handicapped accessibility improvements at this time with the patio considered at a later date.

Mayor Jett stated he had no issues with the design for the front of the building.

Alderman Condon said she did not understand why the Council would allow a door, and ramp into the park, but no improvements and outdoor seating and suggested the Council approve the entire plan now. The financial aspects of the project are the responsibility of the applicant.

Alderman Santi restated his focus to see significant work completed to the interior of the building prior to improvements to the exterior and asked if the applicant was permitted to continue working on the interior of the building and Director Polerecky answered yes, he has been.

Addressing Alderman Santi, Mr. Kearns stated that he had comedians booked starting June 2 and throughout the summer who are flying in from Los Angeles and New York. He wants the building to open in a way that makes sense so that there is a nice area on the street. The project is privately funded so it is taking a bit longer. Mr. Kearns said he is doing the best he can and wants the business to open soon so he can begin to earn back the money he invested. Mr. Kearns then suggested the discussion was not changing anybody's mind and urged the Council to end the discussion and vote on the project.

Alderman Schaefer referred to the drawing on page 90 of the packet showing the south
side of the building and asked Director Polerecky if the area in black was a railing and where would a person access the door. Mr. Kearns stated the original proposal that went before the Planning and Zoning Commission was to serve liquor in the park and a railing was proposed around the area. However, that has been changed and the patio pushed back utilizing less space in the park. Alderman Schaefer asked if there was a current drawing in the packet. Mr. Kearns stated the current drawing that is not included in the packet shows a path connecting to the other path in brick; the drawing in the packet is the original design and has been changed. Director Martin stated the architectural drawing of just the interior is included in the packet.

Alderman Schaefer stated he was trying to determine where the door would be on the building. Mr. Kearns said the bump out is at the door with a path connecting to the other path and the fence in the park was eliminated.

Alderman Schaefer asked if staff had reviewed the new drawings with the path on the south side and Director Martin answered that he was not certain if they had.

Alderman Glab asked staff if nothing else were done, how Mr. Kearns would provide handicapped accessibility to the building. Director Polerecky answered a ramp would have to be installed in the front. A discussion ensued on where the property line was in front of the building and if Council approval would be required to install a handicapped accessibility ramp. Attorney McArdle stated that it was not unusual to accommodate ADA in public right-of-way in tight areas throughout towns and should be coordinated between the city and applicant. Alderman Glab said more than any other item, this should be determined this evening.

Alderman Glab said since the building is 7,200 square feet he does not understand why the applicant wants to use city property to expand the business.

Alderwoman Condon stated from her perspective, she understood McHenry to be a community that was responsive to redeveloping our downtown area to attract visitors to town. The Council is responsible to get the best quality of product they can to town however there have been past discussions about outdoor seating downtown and she wants to help local businesses.

Alderwoman Condon made a motion, second by Alderman Devine to adopt an Ordinance granting a Conditional Use Permit to allow Assembly Use, Outdoor Seating, and Indoor Entertainment for Utopian Roast LLC d/b/a Hidden Pearl Café located at 1252-1254 N. Green Street; and an Ordinance authorizing the Mayor's execution of a Revocable License Agreement with Utopian Roast LLC to utilize .45 acres of city-owned property located at 1246 N. Green Street aka Neumann Park for outdoor seating and entertainment purposes and including the sidewalk in the front of the building ADA accessible.
Voting Aye: Condon, Devine
Voting Nay: Curry, Glab, Mihevc, Santi, Schaefer
Absent: None
Motion failed.

C. Motion to adopt an Ordinance granting a Conditional Use Permit to allow Outdoor Storage of Vehicles in conjunction with a Towing and Limousine Business at 4910 W. Elm Street (Rex Towing).

Director Martin provided the Council with a summary of the request.

Motion by Alderman Schaefer, second by Santi to adopt an Ordinance granting a Conditional Use Permit to allow Outdoor Storage of Vehicles in conjunction with a Towing and Limousine Business at 4910 W. Elm Street.

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

D. Motion to adopt an Ordinance granting a Conditional Use Permit to allow a Drive-In Establishment and Outdoor Seating for a new Starbucks location at 4305 W. Elm Street.

Director Martin provided the Council with a summary of the request.

Alderman Glab expressed his reservations about westbound traffic making a left turn across Route 120 to enter the drive-through.

Director Martin reported that he required the applicant to perform a traffic study, which concluded the drive-through would accommodate the traffic conditions at the site.

Alderman Curry stated concerns about making a left turn to enter the property are valid and asked if approval from IDOT was required and Director Martin stated no, if the entrance/exit is not altered, IDOT usually does not get involved. Director Martin added the site was a difficult and challenging project. It was not financially feasible to go to the light and it would encroach city property. The entrance/exit would not be altered. West and northbound traffic in the evening poses a challenge, which is why the traffic study was required. The study and recommendations were included in the packet.

Alderman Curry asked Chief Birk if it was against the law to stop in the crosshatched section of the roadway between the north and southbound lanes while waiting to make a left turn and Chief Birk concurred that the center lane is not wide enough to accommodate vehicles waiting to turn. Therefore, Alderman Curry concluded that cars
would have to drive through the light and stop in the middle of the westbound lane and wait to make the turn.

Alderman Curry asked if the Council moved forward with this project and an issue arises, does the city have any recourse and Director Martin said another business could locate in that area without the need to come to Council and their customers would make turns in and out of the business. This matter is before the Council because of the drive-through lane only.

Alderman Glab asked Chief Birk if this site becomes a traffic problem could the city ask IDOT to prohibit a left turn into the business. Chief Birk stated he is not aware of IDOT enforcing a no left turn from the roadway onto a private drive, but they can enforce left turns out of a private driveway or at intersections.

Chief Birk suggested asking IDOT to consider shortening the turn lane to open up the middle median and make it a bit longer.

Alderman Schaefer made a motion, seconded by Alderman Santi to adopt an Ordinance granting a Conditional Use Permit to allow a Drive-In Establishment and Outdoor Seating for a new Starbucks location at 4305 W. Elm Street.

Voting Aye: Schaefer, Santi, Mihevc, Devine, Curry, Condon
Voting Nay: Glab
Motion carried.

DISCUSSION ONLY ITEMS

A. Meyer Material Company’s Request for extension of its business of gravel excavation and processing.

Mayor Jett announced that Randi Willi, Attorney Mark Saladin, and other representatives of Meyer Material Company were present and invited the Council to ask questions or make comments.

Alderman Santi stated he sent comments to City Administrator Morefield expressing his concern about the proposed annexation agreement extension. He had attended the Planning and Zoning Commission and listened to city resident express their concerns. Alderman Santi stated he would like the issues of noise and hours of operation to be discussed with an agreement suitable for both parties. He would like a letter of credit instead of bonds to guarantee reclamation of the site. He would like berms 12 feet or higher with wooden fencing on the berms, a noise monitoring system and monthly mining reports. If an agreement cannot be reached, Alderman Santi suggested offering a one-year extension with a noise and dust system in place.
Alderman Glab asked how McHenry compared to other municipalities for the price per ton fee. City Administrator Morefield answered the following information was included in the packet: Meyer-Algonquin is 3.4 cents/ton; Meyer County south of Marengo none; Meyer South Elgin none; Thelen/Lakemoor, 10 cents/ton; Consolidated Harvard, 6 cents with a one cent increase every 5 years; all pits annexed to Marengo, 5 cents; Meyer Harvard, 6 cents with a one cent increase every 5 years; McHenry County, none; and, City of McHenry 6 cents/ton. Mr. Wille added the Harvard pit fee increases one cent every 5 years.

Alderman Glab asked Mr. Wille to expand on the health and environmental comments made earlier in Public Input and, what had been done in the past by Meyer.

Mr. Wille stated Meyer submitted to the Planning and Zoning Commission the data that had been used in previous annexation negotiations such as volumetric sampling at Valley View School. The Miller family in 1988 performed dust to noise sampling on the perimeter. All operations were permitted by the IEPA. The operation of the equipment is an air pollution control along with a water pollution control permit that allows Meyer to recycle all wash water returning it back into their pots in a closed-loop system. They also have with the IDNR a series of permits to open sections of land as part of the Surface Mine and Land Conservation and Reclamation Act. For every piece of land that is permitted by the state, Meyer posts a bond; currently there are approximately nine or 10 open permits and total bonds for all of those permits combined is $943,000. They are evergreen bonded giving the obligee the power to release only when the terms of the plans are met, which were filed with the city long ago. The IDNR inspects Meyer a couple of times per year to ensure compliance with the permit as the plan depicts.

Alderman Glab noted that this is a long involved process with many inspections and Mr. Wille concurred. Alderman Glab suggested the city receive copies of the bonds and inspections, and Mr. Wille said he would provide copies to the city.

Alderman Schaefer said he also shared his comments with City Administrator Morefield and stated he would support a four or five year agreement term and increased tonnage fees; he would like more information stating if the $943,000 restoration bond is enough in today’s terms. Mr. Wille stated they also have three $100,000 bonds with the city for a total of $1.243M in bonds. The $943,000 bonds are issued to the State of Illinois.

Alderman Schaefer stated the noise and dust issues have been the most vocal concerns expressed by residents in the area. Meyer has addressed the noise from trucks backing up. Improvements that can be made to the asphalt operations at the pit even if they are not Meyer’s have to be discussed. Alderman Schaefer stated regarding the noise and dust, if we were going to make this a partnership than we have to establish deterrents or fines for violations similar to liquor license violations.

Alderman Curry stated his comments were distributed to the Council and Mr. Wille. His
statement incorporates concerns expressed to him by residents over the past two years. His list contains issues and possible solutions. Alderman Curry agrees the term should be shortened to four or five years. As the north side is not expiring, it should not be considered at this time. A four-year extension for the south side would sync the north and south and Meyer can return to the city again and request at that time a 10-year extension.

Alderman Curry further stated in his opinion, the biggest problem with noise is waking people up early in the morning and it does not matter if it comes from the asphalt plant or the pit. The asphalt company would not have to have a backup alarm if they hired flaggers. The changes to the backup alarms in general do not really get into outside equipment so Alderman Curry suggested there is enough property to have trucks drive in and staged in a manner that they never have to backup.

Alderman Curry asked for noise testing to be done at the pit at the site of the nearest residentially zoned property regardless if it is in the city limits.

Regarding dust, it does not appear there is a standard protocol for dust. In most of the prior annexation agreements and ordinances, it calls for all processing equipment to be enclosed in buildings and it is not being done except for possibly in the washhouse. Mr. Wille stated originally, the processing center was located on the east portion of the property in the industrial zoned property where Curran’s plant is located. They were allowed to wash 24-hours a day. Apparently, there was some noise coming from that wash plant in the night that bothered the neighbors and Meyer was asked to enclose the wash plant. The second phase of the mine, the processing center was moved to the west end of the property where it is today. In doing so, they bought a new wash plant, which was quieter and not used 24-hours a day because the plant was producing quicker and more efficiently. Alderman Curry told Mr. Wille that the annexation agreement states that all processing equipment shall be enclosed.

Alderman Curry noted the amount of dust residents are forced to deal with in their homes, pools, etc. However, on the Mine Safety and Administration website, he read information on employee hygiene test that show allowable employee hazard exposure limits within the permissible exposure limits established for total dust and silica, which was a big concern. This is good news for employees with some comfort knowing the dust is not hazardous. Alderman Curry stated he still thinks air quality testing should be performed.

Other issues brought up by Alderman Curry included the stormwater on Parcel A; reclamation plan should be updated and a letter of credit issued to the city by Meyer for an amount equal to the cost of final reclamation, rather than bonds. Continue the requirement for the berms; improve the fencing along the school property line; improve the complaint process through the city; and inspect trucks prior to leaving to ensure loose materials do not fly off and cause property damage or injury. The fees should be
increased substantially and a penalty schedule should be created and should increase with each subsequent violation.

Alderman Mihevc agreed with the comments made by the Council and added a few items of importance to him. A four-year term for the agreement with negotiations at the end of the four years to a 10-year term. An updated reclamation plan and a determination as to the true cost of reclamation along with a letter of credit for the full amount of reclamation. The noise mitigation steps mentioned by the Council are important and establishment of a penalty system with fines for violations.

Alderman Devine said he had concerns about how complaints were handled in the past and how this will change in the future. Residents have to live every day near the pit and everyone involved needs to figure out how to work through these issues and ensure the city is aware of all complaints and issues. The reclamation plan should be updated and a shorter agreement term should be considered.

Alderwoman Condon stated the monthly reporting, height of the berms were important considerations and added white noise and backup alarms issues that had been resolved between Meyer and the city attorney were favorable to her. A discussion ensued on the feasibility of creating a path so that all trucks did not have to backup. Alderwoman Condon also suggested the fee schedule be amended to $.07, $.08, and $.10/pound charged in five-year increments.

Alderwoman Condon asked staff is District 15, which includes Valley View School, was notified of the hearing and Director Martin answered yes. Alderwoman Condon asked if any complaints or comments were submitted to the city by District 15 and Director Martin answered no.

Alderwoman Condon stated she was in favor of penalties for repeated violations and appreciated Meyer’s statement about responding to residents’ complaints and urged Meyer to contact city staff when any complaint is expressed directly to Meyer.

Regarding Alderwoman Condon’s suggestion to update the reclamation plan, Mr. Wille stated the plan was approved by the City of McHenry, it is on file with the State of Illinois, and the state is monitoring their progress. He asked if the question is regarding the value of the bonding or the design of the site. Alderwoman Condon answered the value of the bonding is her concern.

Alderman Glab referred to the fencing on top of the berm and said he did not want to see it fall into disrepair and become useless like the Austrian Pines.

Mayor Jett offered the floor to Attorney Mark Saladin, Zanck, Cohen, Wright and Saladin representing Meyer Material Co. Attorney Saladin stated one concern they have had moving through the process is that this is a business entity that has been part of the
community over 40 years. This is a business entity that has produced jobs throughout the city, produced infrastructure and built roads, homes, and schools with its products and the reality is that McHenry County is rich in this resource. They realize mining must be done in a reasonable and responsible manner. There are a number of layers of different ordinances and state laws that come into play that they will continue to abide by. Meyer did receive a 5-1 recommendation from the Planning and Zoning Commission to move this matter forward. Regarding the fee structure, we have an industry that pays an annual fee unlike any other and rightfully so. In Attorney Saladin’s opinion, the dilemma is that we have seven Aldermen and a Mayor with seven different opinions for which a consensus must be made at some point in the next few weeks in time for the public hearing on April 16. Mr. Wille is willing to discuss some items brought up tonight however reaching a reasonable agreement is what is needed. One of the memorandums included in the packet indicated that if we cannot reasonably address these concerns, the city would not ratify continuing the operations. Attorney Saladin emphasized that in his opinion, state law supports the fact that the conditional use in this instance is tantamount to a principal use at this point and that there are some vested rights on behalf of the petitioner as well and asked everyone to work towards a reasonable agreement.

Mr. Wille stepped up to the podium to address comments made about the reclamation plan. From a financial standpoint, someone would have to be hired to calculate how much outstanding viability there is. He stated he would prefer they maintain the $300,000 in bonds rather than obtain a Letter of Credit however, he would consider issuing an additional bond. Meyer would have to review the proposed increase in fees.

Regarding air and noise; Mr. Wille informed the Council that today they began stripping the area along Glacier Ridge Subdivision to naturally increase the height of the berms, which by ordinance are to be maintained at a minimum of 10-feet however the topography ungulates a bit and he would like to be able to keep the berms at 12 or 13 feet high.

Regarding the complaint system, Mr. Wille said he would welcome something that is fair and orderly so that everyone knows where everyone stands.

As for times of operation, Meyer would prefer to extend the duration of their permit for as long as possible because the restoration process for what has been done will take more than five years to complete. Mr. Wille said he previously told Mrs. Nadar that he could move the crushing system away from Glacier Ridge residents however; the timeline is longer than four years. Mr. Wille said he performed some self-sampling and found the loading to be inaudible at the Glacier Ridge property line near Chickaloon Drive. He will resample a few more times. Regarding field operations, they need to begin at 6:00 AM and will not reverse the conveyor belts to take water off before 6:00 AM. On Saturdays, they would consider starting later.
Mr. Wille stated that the operation is governed by an air pollution control permit issued by the State of Illinois. They have operating standards and are required to complete an air emissions report for the state. The roadways around the conveyor belts and stockpiles are where they aim to control the dust. If they are out stripping a piece of land on windy days, they will find something else to do that day.

City Attorney McArdle asked Mr. Wille to provide the city with copies of the air pollution reports for review by the city engineer.

Alderman Curry said the testing should be repeated at the property lines and particularly around Burning Tree Subdivision where the biggest dust problems occur. Mr. Wille stated there is a federal standard for a 24-hour period. Increasing the height of the berms and getting areas completed that are still open along Burning Tree Subdivision in his opinion should be a higher priority.

Attorney McArdle asked the Council if this is what they would like to see done to ease the amount of dust in Burning Tree Subdivision and Alderwoman Condon asked if this had been performed previously.

Tony Genitis, Meyer's' Operations Manager for the Greater Chicagoland Area Meyer addressed the Council regarding Alderman Curry's comments about the MSHA regulations they are subject to follow. Two random inspections are conducted at Meyer each year to inspect all aspects of employee safety that includes asbestos exposure to dust and found employees to be under the minimum limits. The reports are available online and will be forwarded to the city.

Doug Evercamp, Meyer Plant Manager addressed the Council and said that the reports are made public as reviewed by Alderman Curry. They have had no violations on the site since July 2015, which is how long he has worked in McHenry. In that time, he received one complaint about dust along the stripping area on a windy day and one noise complaint on a Saturday morning. He added the field near where the dust is most prevalent is agriculture. The silver dust referred to by residents of Burning Tree does not come from stone, as the sand is brown and suggested it could be a result of the farm field. Mr. Evercamp stated that Meyer also attends bi-annual certification for what is known as smoke-school, and at each mine, at least two employees are certified in opacity reads. These employees are trained to know if a cloud generated is above or below the thresholds of the state permit.

Alderwoman Condon said she would appreciate it if Meyer could present those reports on an ongoing basis, as it would be useful information and suggested bi-annual testing around Valley View School be conducted. Mr. Wille said it would take some coordination and he would have to determine the cost before he could agree.

Alderman Santi asked for the hours of operation on Monday through Friday and Mr.
Wille said anything on the conveyor belt line and the crushing begins at 6:00 AM with relief on Saturdays. Loading and maintenance begins at 5:00 AM.

Alderman Curry stated since they must load at 5:00 AM, trucks that are then entering the pit prior to 5:00 AM and suggested they load the trucks the night before. Mr. Genitis said they could and do as often as practical however, there are federal mandated rules on truck driver’s hours of service and the number of sequential hours they are able to operate safely a truck before rest periods are required. Most drivers tap out on their hours by the end of their shift. To circle back and get an extra load would cut into their ability to earn wages as they are paid by the load.

Mayor Jett asked where the trucks comes from and Mr. Genitis said it varies as they have relationships with approximately 100 haulers throughout the state and others are customer-contracted haulers.

Attorney McArdle recommended that Meyer take the draft of the agreement and submit responses to everything that was said to the city as soon as possible as time is limited.

**STAFF REPORTS**

None.

**MAYOR AND CITY COUNCIL COMMENTS**

Mayor Jett congratulated the McHenry Police Department for achieving their fifth CALEA accreditation.

Alderman Schaefer stated he did not want Mr. Kearns to feel that he is battling the City Council and asked staff to relay to him that he needs to organize the details of his request.

Alderman Santi said he would like to walk through the business. Director Polerecky said he and Director Martin would reach out to Mr. Kearns. A discussion ensued on whether this matter could return to the Council without going through Planning and Zoning again.

**EXECUTIVE SESSION**

Motion by Alderman Santi, second by Alderman Glab to enter into Executive Session for the purchase or lease of real property for the use of the public body, 5 ILCS 120/2(c)(5).

Voting Aye: Santi, Glab, Schaefer, Devine, Curry, Mihevc, Condon.

Voting Nay: None.

Absent: None.

Motion Carried.
The Council entered Executive Session at 9:50 PM.

Motion by Alderwoman Condon, second by Alderman Schaefer to adjourn Executive Session.

Council reconvened Open Session at 10:11 AM.

**ADJOURNMENT**

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

- Voting Nay: None
- Absent: None.
- Motion Carried.

The meeting adjourned at 10:11 PM.

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Mayor

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Deputy City Clerk