Call to Order
The City Council of the City of McHenry, Illinois, met in regular session on Monday, June 3, 2019, at 7:00 p.m. in the McHenry City Council Chambers, 333 S. Green Street, McHenry, IL.

Roll Call

Pledge of Allegiance
Mayor Jett proceeded to lead those present in the Pledge of Allegiance.

Proclamation
Mayor Jett read a prepared proclamation proclaiming June 21-28 as Bicycle Week in the City of McHenry.

Public Comment
Mayor Jett asked if there were any comments from the public in attendance. Jeff Varda of the Landmark Commission thanked several people, companies, and organizations for their help and support with Petersen Farm. Historic Petersen Farm is being nominated for the National Register of Historic Places. He also invited members of the Council to tour the property and invited them to Petersen Farm Day on June 23rd.

Consent Agenda:
Motion to Approve the Following Consent Agenda Items:
A. Simplified Municipal Telecommunications Tax Ordinance;
B. Block Party Request for St. Patrick Church, 3500 Washington Street, on Sunday, June 23, 2019, between 7:00 a.m. and 5:00 p.m.;
C. Appointments to City Council Committees;
D. Parks & Recreation Facilities Alcohol and Special Use Permit Requests;
E. May 20, 2019 City Council Meeting Minutes;
F. Issuance of Checks in the amount of $114,707.38.
No members of the Council wished to remove any items from the consent agenda for separate consideration. A motion was made by Alderman Schaefer and seconded by Alderman Santi to approve consent agenda items A-F as presented. There being no further discussion on the motion Deputy Clerk Johnson called the roll. Roll Call: Vote: 7-ayes: Alderman Schaefer, Alderman Santi, Alderman Glab, Alderwoman Baehne; Alderman Mihevc, Alderman Devine, Alderwoman Miller. 0-nays, 0-abstained. Motion carried.

Individual Action Item Agenda

Motion to approve a Conditional Use Permit to allow the outside storage of vehicles in conjunction with a towing operation at 4564 Bull Valley Road.

Director Martin explained one condition of the permit is that the property should be clear of all debris including all inoperable vehicles. Vehicles should be kept in the enclosed area and maintained in the area south of the building. Alderman Santi asked if there were any staff concerns regarding the future if a road were to be built off the ridgeway into Dartmoor. Possible retail expansion may be an issue in the future. Neither Director Martin nor the rest of the staff had any concerns. A motion was made by Alderwoman Baehne and seconded by Alderwoman Miller to approve a Conditional Use Permit to allow the outside storage of vehicles in conjunction with a towing operation at 4564 Bull Valley Road. Roll Call: Vote: 7-ayes: Alderwoman Baehne, Alderwoman Miller, Alderman Devine, Alderman Mihevc, Alderman Schaefer, Alderman Glab, Alderman Santi. 0-nays, 0-abstained. Motion carried.

Motion to approve the issuance of a Class A Liquor License to Whiskey Straight LLC, located at 3932 Main Street, McHenry, Illinois.

Prospective partners Dan Hart and Kevin Slimko were present and discussed their proposed venture with the Council. Alderman Santi questioned Mr. Hart and Mr. Slimko on their current business operations. Once concern is that giving a liquor license to this type of business opens up the possibility for all other businesses to get liquor and video gaming licenses. Alderman Glab expressed his reservations about giving liquor licenses to service type businesses. Alderman Schaefer explained his family history with the property and was happy to see a viable business go to that location, but wanted to be careful giving a liquor and video gaming license to a non-traditional establishment.

City Attorney McArdle explained that there are two separate issues that he does not want the Council to get mixed up. One issue is a liquor license. Receiving a liquor license is a privilege and not a right. The Council has the power to issue or refuse liquor licenses to specific businesses. Mr. Hart noted that if the Council wanted to stop video gaming parlors in the future, they can simply refuse to issue a liquor license to those specific businesses as they apply.

Alderwoman Baehne expressed her excitement for this new venture. She stated that this is perfect timing and there is a need to revitalize that area with high end space and bring in high
end clients. She also reiterated that this is an application for a real Class A liquor license, not a proposed personal services liquor license. She stated that it is the Council’s responsibility to support these businesses. The fact that this is a non-traditional concept means that McHenry can get people from other towns to visit here. Aldermen Mihevc stated that he likes what is proposed with the site and the business concept, but had concerns about issuing a liquor license. Alderman Devine expressed some reservations but wished to support the project. Alderwoman Miller stated that she fully supports the project and feels this will be a success to the community.

Mayor Jett explained that this is a unique business opportunity, and having Dan Hart involved is a positive for the community. He has a vision to help revitalize Main Street, which is a forgotten downtown. He believes that if somebody is willing to invest $100,000 to $300,000 of their hard earned money, he strongly urges the Council to support them. He believes if this were proposed in other towns, those Mayors would be ready tomorrow to get them into their town. Mayor Jett asked if there was any public comment on the issue.

Mary Mahady came to the podium and expressed her concern that more businesses were wanting video gaming machines. She understands the need to fill vacant store fronts and the revenue that can be brought in, but is worried that this can open the door for more businesses wanting gaming machines.

Val Ziebel came to the podium and explained she was the owner of Valerie’s Salon, and had applied for a liquor license without video gaming. She supports the business idea that is being presented and thinks it is a fantastic idea. She stated that this type of “out of the box” thinking is what gets customers into her business. She believes the Council needs to support their entrepreneurs before other communities do and McHenry loses out.

Mayor Jett asked if there was a motion to approve the issuance of the license. A motion was made by Alderwoman Baehne and seconded by Alderwoman Miller to approve the issuance of a Class A Liquor License to Whiskey Straight LLC, located at 3932 Main Street, McHenry, Illinois. Aldermen Glab and Schaefer further stressed their hesitation with video gaming. Alderwoman Baehne argued that the purpose of the business was not a video gaming establishment, but that video gaming does bring in a half a million dollars each year that the City needs to operate. Mr. Hart stated that without the liquor or video gaming license that DC Cobbs and the other new restaurants in town would not have opened. DC Cobbs would not have remodeled, supported events as a sponsor, and would not have given entrepreneurs in the City the opportunity to remodel the theater. Mayor Jett asked the Clerk to call the roll. Roll Call: Vote: 3-ayes: Alderwoman Baehne, Alderwoman Miller, Alderman Devine. 4-nays: Alderman Santi, Alderman Glab, Alderman Schaefer, Alderman Mihevc. 0-abstained. Motion fails.

Motion to approve and authorize the execution of a Development Agreement and Release of Letter of Credit and Annexation Agreement Obligations between the City of McHenry and Thelan Sand & Gravel, Inc.
Attorney McArdle explained that when the property along Veterans parkway and Route 31 has two letters of credit issued. One was for approximately $400,000 for securing the bike path, sidewalk, and future traffic signal, and the other was for approximately $500,000 for the onsite improvements. Developer Prairie Point LLC and Thelan would now like to be released from those letters of credit in exchange for allowing the City to dispose of dredge material at a discounted rate. The going rate for dumping dredge material is reportedly over $100 per truckload, and Thelan agrees to let the City dispose of material at a cost of $10 per truckload and $20 per truckload thereafter, not to exceed 20,000 cubic yards.

Attorney McArdle also explained that the letters of credit are due to expire in 2023, and if warrants required improvements before building permits were to be needed, then the same two letters of credit would be issued in the same amounts. After a brief discussion, it was decided that the cost savings for the dredging far outweigh any risk involved for the City. Director Hobson also noted that the dredging project is way ahead of schedule, and in it could realistically be done in less than two months. Initial projections called for the project be completed in October. A motion was made by Alderman Mihevc and seconded by Alderman Santi to approve and authorize the execution of a Development Agreement and Release of Letter of Credit and Annexation Agreement Obligations between the City of McHenry and Thelan Sand & Gravel, Inc. Roll call: Vote: 7-ayes: Alderman Mihevc, Alderman Santi, Alderman Glab, Alderwoman Miller, Alderman Devine, Alderwoman Baehne, Alderman Schaefer. 0-nays, 0-abstained. Motion carried.

Motion to approve and authorize the execution of a Letter of Intent with Leopardo Companies, Inc. for the Completion of a Capital Program Audit to identify cost savings for reinvestment to address the City’s capital improvement and equipment needs.

Director Polerecky gave a brief introduction to the savings opportunity, and it was noted that the completion of the audit comes at no cost to the City of McHenry. Leopardo guarantees that they will develop a budget that is cost neutral or better for implementation. If the City chooses not to implement the developed program, then the City is obligated to pay Leopardo $50,000 for reimbursement of services. If the program is implemented Leopardo will serve as the City’s general contractor for the implementation of identified improvements through a Guaranteed Performance Contract.

Rob Vollrath of Leopardo introduced the team of consultants and they walked through the presentation that matched the handouts given to the Council. They explained about their company and how the process would work. Major infrastructure needs included roof replacements at City Hall and Merkel Aquatic Center, window replacements at Public Works, failing HVAC equipment at multiple facilities, and conversion to LED lighting systems. Another point of emphasis was the City’s feet of vehicles and how half of them are over 10 years old.
Alderman Santi asked how we can guarantee the savings and who reviews the numbers. It was explained that the company will measure and verify bills, and those expenses are reported to the City and also to the State. Director Polerecky stated that there is State legislation that regulates these types of programs. Alderman Schaefer asked about vehicle funds and if interest rates would change. Finance Director Lynch explained that vehicles for specific departments are paid for out of those department funds. Mr. Vollrath stated that the interest rates are locked in.

Alderman Mihevc asked who exactly the construction contacts would be with. It was explained that the City would have a contract with Leopardo, and they would be the general contractors. Other contractors may or may not be used, but those contracts would be with Leopardo. They also stated that they would have to comply with the same bidding rules and prevailing wage rates that the City must follow. Leopardo also mentioned that they like to work with local contractors if possible when subcontractors are needed. Alderman Mihevc also asked if there was an opportunity to see an example of a contract before the letter of intent was signed. Leopardo stated that they must adhere to specific terminology, and that they are willing to share the legal terms and conditions.

Alderman Santi expressed his concern that we would be a handing off part of the budget to let them take care of and operate it. He was concerned that the City may not be actively involved enough in the process, and wants to make sure the City can be involved to make adjustments from time to time. Mr. Vollrath explained that this involvement can be set up different ways, but the City can be very much involved if they would like to be. Committees of employees or Council members can be formed to work with Leopardo.

A motion was made by Alderman Schaefer and seconded by Alderwoman Miller to approve and authorize the execution of a Letter of Intent with Leopardo Companies, Inc. for the Completion of a Capital Program Audit to identify the cost savings for reinvestment to address the City's capital improvement and equipment needs. Roll Call: Vote:  7-ayes: Alderman Schaefer, Alderwoman Miller, Alderman Devine, Alderman Mihevc, Alderwoman Baehne, Alderman Glab, Alderman Santi. 0-nays, 0-abstained. Motion carried.

Discussion Only Items

Attorney McArdle reported that there was a conditional use permit issued to the school district at the last meeting, but it was issued subject to four conditions. One of the conditions was for a presentation by staff regarding the northwest drainage agreement. Attorney McArdle read through an intergovernmental agreement from 2016 describing the easements and the drainage ditch. It was stated that lots 1-28 were encumbered by a 10 foot easement on the plat side but not the district side. Lots 29-39 were encumbered by a 5 foot wide utility easement on both sides. Mr. McArdle noted that the district would have the right but not an obligation to enter those easement areas to fix drainage issues.
Alderman Glab stressed that one problem with the drainage ditch is that the descriptions don’t match the entire actual ditch. Things were different 25-30 years ago when plans and developments were made, and nobody may have checked to make sure ditches and easements matched. He would like to have an agreement between all of the property owners, the school, and the City to make sure everybody knows who has what responsibility for the drainage ditch. Alderman Schaefer suggested amending the agreement to include all areas along with homeowners, the school, and the City.

Attorney McArdle stated that it would not be possible to get all of the homeowners on the same page for a joint agreement. Alderwoman Miller said that educating the homeowners should be an important component that needs to be employed. Some owners aren’t the original owners and may not even know such an agreement exists. The Council debated the rights and responsibilities of different parties, and it was suggested that staff bring back more information to the Council. Director Polerecky said he walked the entire ditch and that there is some vegetative growth on certain areas, but the ditch itself is pretty clean from end to end. Interim Public Works Director Strange explained that there are some street drains that discharge directly into the ditch, but they are not dedicated to the City for maintenance. The maintenance of outfalls is an issue in many areas of the City and the neighborhood in question is not nearly as bad as it is in other areas. It was stated by both Director Polerecky and Director Strange that the water is flowing where it is supposed to, and that no major issues have occurred due to the drainage ditch. If the City uses its resources to try and remedy that situation, it will be forced to make cuts in other areas.

Mayor Jett stated that he did not want to spend any more time or money on this issue when other things needed to be done. He is fine with staff doing more research, but they need direction from the majority of the Council. District 156 Superintendent Ryan McTague is willing to have meetings and to reconstruct portions of the project if needed. Director Polerecky has built a good relationship with the people running the school project and promises to work with them. He will also take pictures of the entire ditch and give a full report back to the Council.

**Staff Reports**

Director of Parks and Recreation Hobson reported that the soap box derby is taking place this weekend. Interim Director of Public Works Strange reported that the road program was released today. Police Chief Birk will have information at the next Council meeting regarding research on alcohol, video gaming, personal care establishments, and language regarding video gaming parlors.

**Mayor and City Council Comments**

Mayor Jett reported that four people were interviewed for the office of City Clerk. One has been chosen and a recommendation will be brought before the Council at the next meeting. He also expressed his concern with the Council’s decision not to support a business venture. Both he and
the staff work hard every day to bring businesses to McHenry, and we turned one away that can go next door. He gave a warning that he plans a social media post on his thoughts about how things happened with this issue at tonight’s meeting.

Alderman Schaefer stated that it is noticeable when businesses park in the downtown area taking up spots. He asked if there was anything that could be done to keep owners and employees from using those spaces. Chief Birk said there is nothing that can legally be done but that they have had those conversations with business owners.

Alderman Santi asked that now that committees have been finalized, if Interim Public Works Director Strange could contact new members and have a brief introductory meeting with list of topics to be discussed in the next 9-12 months.

With the talks of drainage ditch issues, Alderman Devine wished to remind people of the flooding issues occurring in his ward. Much of the ward is flooded with water through driveways. Interim Director Strange reports asking for additional modeling and hopes to present something later this summer.

Mayor Jett asked if anybody else in attendance had any requests to speak before Council adjourned to closed session. One resident asked to speak on a personal issue about his parents moving into a contracted house with Cunat. There are closing issues with the home loan and a need for a variance. Director Polerecky will work with the individual to see if there is anything the City can do to help the issue.

**Executive Session**

A motion was made by Alderman Santi and seconded by Alderwoman Baehne to adjourn to executive session at 10:00 p.m. to discuss pending litigation (5 ILCS 120/2(c)(11), and to review executive session minutes (5 ILCS 120/2(c)(21).). Roll Call: Vote: 7-ayes: Alderman Santi, Alderwoman Baehne, Alderman Glab, Alderman Schaefer, Alderman Mihevc, Alderman Devine, Alderwoman Miller. 0-nays, 0-abstained. Motion carried.

Mayor Jett reconvened the meeting from executive session at 10:19 p.m. A motion was made by Alderwoman Baehne and seconded by Alderman Santi to return to open session. Roll Call: Vote: 7-ayes: Alderwoman Baehne, Alderman Santi, Alderwoman Miller, Alderman Devine, Alderman Mihevc, Alderman Schaefer, Alderman Glab. 0-nays, 0-abstained. Motion carried.

A motion was made by Alderman Mihevc and seconded by Alderwoman Miller to pass a Resolution approving Executive Session meeting minutes as presented with the amendment to the minutes of March 18, 2019, to authorize the release of Executive Session minutes as presented, and to authorize the destruction of any Executive Session recordings that have existed for more than 18 months and for which the minutes of that meeting have been

Adjournment

There being no further public business to discuss, a motion was made by Alderman Schaefer and seconded by Alderwoman Baehne to adjourn the meeting at 10:20 p.m. Roll call: Vote: 7-ayes: Alderman Schaefer, Alderwoman Baehne, Alderman Santi, Alderman Glab, Alderman Mihevc, Alderman Devine, Alderwoman Miller. 0-nays, 0-abstained. Motion carried.

Mayor Wayne Jett

Deputy Clerk Monte Johnson