Special City Council Meeting Minutes  
September 4, 2018

Call to Order
Mayor Jett called the meeting to order at 6:00 p.m.

Roll Call
Deputy Clerk Meadows called the roll. Members present: Alderwoman Condon, Alderman Mihevc, Alderman Curry, Alderman Schaefer, Alderman Glab, Alderman Santi and Mayor Jett. Alderman Devine arrived at 6:50 p.m. Others present: Attorney McArdle, Administrator Morefield, Police Chief Birk, Project Engineer Strange, Director of Community Development Polerecky, Finance Director Lynch, Park and Recreation Director Hobson and Director of Economic Development Martin.

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

Public Comment
Mayor Jett acknowledge that resident Ms. Barb Schuer was in attendance. However, she offered no comments at this time.

Executive Session
Attorney McArdle reported at this time he recommends Council defer entering into executive session until the Council Members have an opportunity to engage in a conversation regarding the continued negotiations with respect to the Meyer Material annexation agreement amendments. Both Meyer and Lafarge representatives were present to discuss the proposed amendments. The Council Members concurred with Attorney McArdle’s recommendation to postpone the executive session to allow for continuation of the negotiation conversation.

Meyer representative Mr. Randi Wille presented a series of pictures and a storyboard depicting various site locations regarding the placement of heavy equipment, berms, mining sites, stock piles and the processing center along with a timeline in which each of these operational components will be in the area as depicted on the map. He noted that at a previous Council meeting in which Meyer was in attendance that they agreed that the mining operations would continue for eight years. The dry bank mining operations would be completed by December 31, 2024 and all wet (below water) operations would be completed by December 31, 2026. Mr. Wille spoke in great detail while outlining each remaining year of operations.

Alderman Curry inquired about the location of the secondary crushers. Mr. Wille noted that the primary crushers will be mobile and will be moved to different areas as needed. The primary crusher is located by the processing plant which is also the location where the trucks exit the site.
The primary crusher would remain in this location for not more than five years and by 2024 the dry banking operations will be completed and the coarse aggregate materials collected. In 2026 the reclamation process will then be completed including the slopes and green fields. Mr. Wille noted that the plans that he is discussing are concept plans depicting the land’s progression in two year intervals.

Mr. Wille continue on to discuss the anticipated stock piling of materials in the year 2024-2027. The stock piled materials could also serve as a barrier. In addition, if approved the current berms could be left in place and continue to serve as noise and dust buffers benefitting the adjacent property owners. Mr. Wille discussed the 2027-2030 footprint in which the conveyer belt running under Route 120 would be used to transport material to and from the plant site.

Attorney McArdle commented on an amended memo received today from Mr. Mark Miller. He questioned what the revisions were. Mr. Wille believed the revisions were in respect to the fees paid over time.

Attorney McArdle reported the main focus of this meeting was to ensure Council approved the points noted in the outline. Mr. Wille reported that his goal is to confirm the Council Members support allowing Meyer to continue the dry bank mining through 2024 and completing the wet mining and restoration simultaneously until December 31, 2026.

Alderman Curry commented on the water feature. Mr. Wille reported that the size of the water feature will be determined by the amount of resources underground. Their geologists conducts soil borings and estimates the amount of resources available in a defined area. However, there is no guarantee of the amount until the wet mining operation is in process. Alderman Curry recalled an earlier conversation in which they collectively discussed the blending of the finest dry materials and when the crushers were no longer needed. Mr. Wille replied yes if 90% of the materials are fine the crushers would be eliminated or moved further north by 2027-2030 and the sand would be transported by the conveyers. Attorney McArdle noted that the issue at hand is the annual reports noting the locations of the crushers. Mr. Wille reported that the primary crusher will be gone in 2024.

The Council Members along with Mr. Wille discussed at length the annexation agreement amendment regarding noise. Noted in the outline is the requirement that Meyer supply the City with a testing device (Dosimeter) which the City will own. This allows the City to investigate noise complaints in a timely fashion. Alderwoman Condon asked if the State’s or City’s noise restrictions were more stringent. Attorney McArdle replied the State’s noise restrictions are currently more restrictive. However, in the near future he will be recommending a code amendment to adopt the State’s noise standards by reference. Alderman Schaefer asked what the difference was between a violation and a noise complaint.
Attorney McArdle reported that he has not drafted the penalty clauses as of yet. However, a complaint would have to be verified in order to be deem a violation.

The Council Members along with Mr. Wille discussed the dust standards and the monitoring equipment. As noted in the outline Meyer will supply the City with Dusttrac to investigate and ascertain dust levels. A lengthy discussion ensued with respect to visible dust. Alderman Curry noted that the personnel conducting the testing should be trained. There was some discussion regarding the cost of Staff training. Attorney McArdle suggested that Council and Staff discuss this matter with Consultant Thunder.

There was some discussion with respect to the retainage of personnel as described in the outline. Attorney McArdle reported that the original language in the agreement stated that the oversight was for groundwater, dust, noise, over and above reclamation as this ongoing. Council Members agreed that reclamation should be included in the cost of the retainage of personnel including HR Green, Mr. Thunder and Baxter & Woodman as long as it did not include any costs incurred with any violations, in that case Meyer should pay those costs.

There was a lengthy discussion regarding updated site plans. Mr. Wille states at this time he does not have updated plans. However, they do have an updated topo. Mr. Wille noted that some of the reclamation has been completed. Alderman Curry stated that the whole plan has to be written to include the existing conditions and the reclamation process moving forward. Alderman Curry went on to discuss the fact that he recognized the State is the governing authority with regards to the mining operations. However, there are elements of the plan that are not required by the State but by the City, so the plans should be approved by the City as well as the State. Mr. Wille agreed. Mr. Wille stated they could have the reclamation plan completed in sixty to ninety days. Alderman Curry suggested allowing them sixty days to draft the plan with a thirty day review period and then a final plan within a hundred and twenty days. Attorney McArdle recommends including a due date and if the plans are not submitted by that date a penalty will be imposed.

Attorney McArdle along with Council Members discussed the groundwater/stormwater testing and reporting requirements. Attorney McArdle stated that the well sites utilized for testing purposes must be identified on a map along with the frequency of the testing. Written test results must be provided to the City. Mr. Wille agreed and noted that they have and continue to monitor groundwater/stormwater as required. Ms. Schuer a resident, volunteered the use of her private well. Mayor Jett reported that Ms. Schuer is the owner of a farm just west of the mining site. Mr. Wille reported that they currently have four wells on the north side of the property that are periodically tested. However, at this time there a no wells on the south side of the property. The Council Members recommended that Staff review the well sites and the conveyance of the stormwater.
Attorney Mc Ardle discussed the requirements of a Letter of Credit for the areas that will be reclaimed now and in the future. Mr. Wille confirmed that Meyer Material will be providing the City with separate Letters of Credit for all the areas that will be reclaimed.

A lengthy discussion ensued with respect to loose gravel debris and truck tarping requirements. Mr. Wille reported that they have signs posted reminding truck drivers to clean their pans. In addition, as the truck drivers exit the pit area and turn in their tickets the attendant inspects the trucks to the best of their ability. However, they cannot enforce tarping. Chief Birk commented on the fact that there is no State law that requires trucks to be tarped. Mr. Wille discussed the method in which trucks are loaded and weighed. Each axle has a weight limit and as each truck is weighed the drivers can identify if the truck is properly loaded.

Attorney Mc Ardle along with the Council Members discussed annual reporting requirements. The City is requiring annual written reports which will include maps/diagrams. The reports shall also include verification of the annual tonnage mined, inspection reports, noise and dust readings and well water testing results. In addition, Meyer will provide the City with an annual update with respect to the reclamation process and the intended plan for the next twelve months.

Attorney Mc Ardle along with the Council Members discussed the fee terms. The total amount due to City is $1,600,000, which includes an additional $50,000 for retained consultants’ fees excluding Attorney fees. The Council Members agreed with the terms of the fee schedule.

Attorney Mc Ardle along with the Council Members discussed the penalties. Attorney Mc Ardle asked if they would consider mirroring the City’s penalties to the penalties that were applied in the Village of Cary’s agreement. Mr. Wille stated that was a different situation. The Village of Cary’s mining was on Cary’s land so the mining construction produced a deliverable finished product. However, the mining in the City of Mc Henry is on land owned by Meyer. In addition, Mr. Wille believed in the draft amended agreement there is enough incentives to force Meyer to complete the mining and reclamation process in the time period referenced in the agreement.

Alderman Curley Condon expressed concern with the proposed fine of $40,000 per month for each month that reclamation was not completed on time. In addition, she expressed concern with the suggested $500 fine per each operational violation. In her opinion both fines were not set at a high enough amount to compel compliance. Alderman Curley agreed. However, in his opinion the more important trigger date was the date of December 31, 2024 in which the dry banking mining is required to be completed. Alderman Schaefer agreed. Attorney Mc Ardle stated that he would use Cary’s penalty language as a starting point and work with Staff to determine a penalty amount for each operational violation.
Attorney McArdle along with the Council Members discussed the complaint process. Attorney McArdle reported that there should be a written complaint procedure and a process in which the complaint is closed. He will work with Staff to develop a complaint process.

Executive Session

Motion to enter into Executive Session to discuss probable or imminent litigation as permitted by 5 ILCS 120/2 (c) (11).

Mayor Jett stated at this time he would entertain a motion to enter into executive session to discuss probable or imminent litigation as permitted by 5 ILCS 120/2 (C) (11) and the purchase or lease of real property by the City as permitted by 5 ILCS 120/2 (c ) (5) with action to follow. Roll call: Vote: 7-ayes: Alderman Glab, Alderwoman Condon, Alderman Devine, Alderman Mihevc, Alderman Curry, Alderman Schaefer and Alderman Santi. 0-nays, 0-abstained. Motion carried.

The Council Members along with Attorney McArdle, Administrator Morefield, Chief Birk, Project Engineer Strange, Director Polerecky, Finance Director Lynch, Director Hobson, Director Martin and Deputy Clerk Meadows entered into executive session 7:45 p.m.

Reconvene/Roll Call

The Council Members along with Attorney McArdle, Administrator Morefield, Chief Birk, Project Engineer Strange, Director Polerecky, Finance Director Lynch, Director Hobson, Director Martin and Deputy Clerk Meadows returned to the public meeting at 7:56. A Motion was made by Alderwoman Condon and seconded by Alderman Curry to reopen the public meeting. Roll call: Vote: 7-ayes: Alderwoman Condon, Alderman Curry, Alderman Santi, Alderman Glab, Alderman Schaefer, Alderman Mihevc and Alderman Devine. 0-nays, 0-abstained. Motion carried.

Individual Action Items Agenda

Motion to Authorize the Mayor to sign a Second Amended and Restated Standstill a/k/a Tolling Agreement with Meyer Material Company.

Attorney McArdle reported that at this time the Council Members and Meyer Material had come to agreement on a majority of the annexation amendments and he is comfortable recommending extending the amended and restated Standstill a/k/a Tolling Agreement until November 13, 2018. A Motion was made by Alderman Curry and seconded by Alderman Santi to authorize the Mayor to sign a Second Amended and Restated Standstill a/k/a Tolling Agreement with Meyer Material Company. Roll call: Vote: 7-ayes: Alderman Curry, Alderman Santi, Alderman Glab, Alderman Schaefer, Alderman Mihevc, Alderman Devine and Alderwoman Condon. 0-nays, 0-abstained. Motion carried.
Motion to Approve an Ordinance Petitioning the City of McHenry Planning and Zoning Commission for Amendments to the City’s Comprehensive Plan and Amendments to the City’s Comprehensive Plan and Amendments to the City’s Zoning Text and Map.
This item was removed from the agenda.

Adjournment
There being no further public business to discuss, a Motion was made by Alderman Schaefer and seconded by Alderman Santi to adjourn from the public meeting at 8:00 p.m. Roll call: Vote: 7-ayes: Alderman Schaefer, Alderman Santi, Alderman Curry, Alderman Glab, Alderman Mihevc, Alderman Devine and Alderwoman Condon. 0-nays, 0-abstained. Motion carried.

Respectfully submitted,

Debra Meadows

[Signature]
Mayor

[Signature]
Deputy City Clerk