

**Minutes for the Board of Adjustment
held March 22, 2012**

Mayor Jeremy Maxand called the Board of Adjustment to order at 6:00 p.m., March 22, 2012, in the Council Chambers. Assembly Members McConachie, Stokes and Jack were in attendance. Assembly Members Privett, McCloskey and Symons were absent. Borough Manager Timothy Rooney and Deputy Clerk Carol Bean were also in attendance.

Public Hearing

**Appeal filed by McGraw Custom Construction, Appealing the Decision
made by the Planning and Zoning Commission, on the denial of the Variance
to the Noise Standards under WMC 20.52.060 Noise**

McGraw Custom Construction requested to operate heavy equipment for the Front Street Road Improvement Project during the hours of 6:00 am to 12:00 midnight, Monday through Saturday.

The Planning and Zoning Commission approved a variance for 6:00 am to 9:00 pm Monday through Friday; and 8:00 am to 9:00 pm on Saturday. Sunday's hours and holidays remain the same as the ordinance, 10:00 am to 8:00 pm.

a. Written Testimony

- Letter from Harvey & Gayle Gross in support of McGraw's request
- Letter from Bill Willard in opposition to request

b. Oral Testimony

Mike Ashton, 120 Reid Street, thanked the Planning & Zoning Commission for the times they gave us; we listened to the concerns; we modified our request; we won't operate the chipper beyond 9:00 p.m.; the only concern is the concrete issues, and a pour may run late. We have a lot of work to do still and have to have the means to complete this; we are not working overtime now and its going well. If we encounter a lot of rock, we may slow down.

Assembly Member McConachie asked if you extend the hours, it will create overtime. Is that included in the price of contract?

Ashton said anything over 8 hours is hard on employees, and the job goes through next August or September. My costs increase, but my productivity does not increase. We will start running multiple crews, so we don't run into nights. I understand the need for minimal impact on businesses.

Assembly Member McConachie said when something goes wrong and city crews have to go down and shut off the water, who pays?

Ashton said the City pays. The pipe is so fragile it breaks when we get near it. Our crew did not cause the breaks. The lines need to be replaced. This is your cost of replacing the lines, for either the City or DOT.

Assembly Member Jack said the reason for extended time is for concrete?

Ashton said we are already into Phase 3, and soon ready to start Phase 4. If we hit solid rock, we will have to hammer it out. We are trying to do this as quickly as possible. I need the extra time available for either concrete or rock.

Mayor Maxand asked your intent is not to hire a second crew?

Ashton said no, but we are starting a second crew next week during the day.

Mayor Maxand said if we grant the appeal, can we put a stipulation on it to be until later?

Borough Manager Rooney said, yes.

Mayor Maxand said if we have people running a second shift and it becomes a problem, I don't want to see you with employees for an evening shift that cannot work.

Ashton said Planning & Zoning has to answer to the public. I have no problem in changing this if we run into problems.

Mayor Maxand said businesses downtown want to get it done as quickly as possible. They will make some level of sacrifice to get the project done.

Ashton said businesses are being helpful. We are letting them know if there are shut offs.

Jack - The consensus is let's get the job done. They are asking why you are not working the hours allowed now. Educate the public.

Mitch McGraw said everything we have done, we have the entire crew here. Specialty crews are all that are not here. We are hiring local workers.

John Taylor, 201 Howell, said it was the feeling of Planning & Zoning that 9:00 pm was late enough; we have no problem with concrete finishers, just noise from heavy equipment. The ordinance is there to protect peace, quiet and the quality of life. We need to take into consideration the noise interfering with sleep. It is not the work hours, but the noise after hours.

Carl Johnson, 304 St. Michaels Street, said he doesn't want to explain extra costs for extra hours for contract administration and inspection. We need to pay for this, the inspection budget is over. Johnson had one question, are you asking for extra time?

Ashton said we have not asked for extra time this year.

Mayor Maxand said extra cost for inspectors; if concrete work done quicker and within this year, do you think the cost will be prohibitive?

Johnson said better to go late and go longer on the project. They will likely come to us later for costs for special inspections. Inspectors may be able to adjust shifts. Not looking at shortening the job, but keeping it from running long. DOT is not paying anything extra.

Discussion and Decision of the Board of Adjustment

Moved by Jack, seconded by Stokes, to accept hours requested by McGraw Custom, with stipulation if there is a problem, will revert back to hours allowed by Planning & Zoning.

Assembly Member McConachie said the Chipper will not be operated after 9:00 pm. *If city crews are needed after hours, cost will be shared 50/50 by McGraw and City.*

Mitch McGraw said we have crews qualified to do this.

Assembly Member McConachie said I will back Carl Johnson on this.

Borough Manager Rooney said I appreciate Mitch not having a problem, but the contract may prohibit that.

Ashton said one challenge on this issue, we broke the water main, and shut off valve, but it did not shut off the water flow. The best resource we have is the City crew and we are making the service better for the City. We don't know which valve controls what. We shouldn't be responsible for paying for city services, not part of the contract. We have had to adjust a lot of different ways. Not fair to incur more costs to us in the contract.

Borough Manager Rooney said schedule turning off valves during business hours.

Ashton said we are doing sewers, water and storm drain. Long before August, all services will be installed. That should not be an issue once we get down to Rayme's Bar.

Mayor Maxand said hours for calling out city crews will not be during evening hours. If you are working in the evening, that is because there is a problem.

Borough Manager Rooney said we don't have a concern about unique occurrences, but regular occurrences.

Johnson said just like any other contract, it will be the responsibility of contractor. We have traded parts and rock, and have come to an agreement. If you go through contract, it will be in there.

Assembly Member McConachie said he will remove my addition, but keep a running total of the costs.

Johnson said we are doing this. Water is our drinking water, and we don't want to violate our permits. We don't want anyone else operating our water system. We have gone over that with them. We have shown them valves for emergencies.

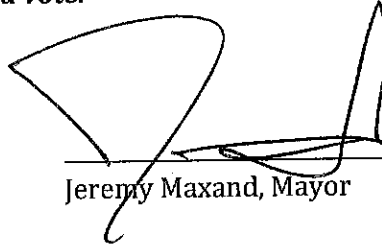
Taylor asked if there are complaints of noise after hours.

Assembly Member Jack said if extending the hours, if there are complaints, we will rescind.

Mayor Maxand said we will revisit if the city has a problem.

Motion approved unanimously by polled vote.

Adjourned at 6:37 p.m.



Jeremy Maxand, Mayor

ATTEST: Carol Bean
Carol Bean, Deputy Clerk

