

# **CITY OF BATAVIA BUSINESS MINUTES SEPTEMBER 10, 2018**

The regular business meeting of the City Council was held Monday, September 10, 2018 at 7:00 PM in the Council Chambers, One Batavia City Centre, Batavia, New York, with Council President Jankowski presiding.

Present were Council President Jankowski and Councilpersons Pacino, Briggs, McGinnis, Tabelski, Canale, Christian, and Bialkowski. Councilperson Viele was absent.

Council President Jankowski called the meeting to order at 7:00 PM. Councilperson Canale led the Lord's Prayer and the Pledge of Allegiance.

The minutes from the August 2018 meetings were approved.

The Council President assigned the regular agenda items.

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## **Communications**

Los Compadres Mexican Taqueria submitted a liquor license application. There was no objection from the police department. Council approved.

John Kennedy requested hold a color run on Saturday, October 13<sup>th</sup> at 9:00am. The race starts at 10:00am from John Kennedy School on Vine St. Council approved.

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## **Council President's Report**

Council President Jankowski announced the next regular City Council Conference meeting would be held Monday, September 24, 2018 in the City Hall Council Board Room, 2<sup>nd</sup> Floor, City Centre. He also noted that there may be a special business meeting if the sales tax agreement moves forward after this meeting.

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## **City Attorney's Report**

George Van Nest, City Attorney, had nothing specific to report but noted they continued to work on a variety of projects.

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## **City Manager's Report**

Matt Worth, Interim City Manager, explained that some of the Savarino projects were out to bid so they would be moving forward. He noted they were preparing estimates for four streets for an application for federal highway funds.

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## **Committee Reports**

Councilperson Pacino noted that the BID Wine Walk was scheduled for October 6<sup>th</sup> and GoArt was offered a \$50,000 matching grant and had already raised \$17,000.

Councilperson Bialkowski noted that he and Councilperson McGinnis were on the audit committee and all of their questions were answered. He noted that the City is in good financial condition. Mr. Worth noted that it was the first time he attended an audit committee meeting and said it was refreshing to see the dedication of the citizens on that committee.

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## **Public Comments**

Rae Frank, 113 Main St, director for WNY Independent Living, suggested, as we move forward with the DRI projects, to consider speaking with Esther Greenhouse from Cornell University who is an expert in design to assist with universal design that work for all types of people. She noted this would go hand-in-hand with the Think Differently concept Council adopted previously. Ms. Frank noted that she was concerned with the purchase of an armored vehicle and the stigma that goes along with it. She stated that those experiencing mental health issues were more likely to be victims of crime as opposed to the perpetrators. She noted she would rather see the money go to training for the police to deal with mental health situations rather than bringing in armored vehicles.

Kenneth Wolter, 16 Watson St, asked for Children at Play signs around Evans, Watson and Thorp streets since a stop sign can't be put up.

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## **Council Responses to Public Comments**

Councilperson Briggs noted that they were looking into a one-way street or other options with public works and the police for that area around Watson. Councilperson Canale noted that the armored car and mental health don't go together. He noted that the vehicle was for the protection of our police force and innocent bystanders. He also noted that the City wasn't buying the vehicle but it would be obtained through a program. Councilperson Bialkowski noted that the MRAP was a multi-purpose vehicle, the City was not in the

process of procuring a tank, and that way of thinking causes hysteria. Councilperson Christian asked who would give a course for law enforcement on mental health. Chief Heubusch noted that the police just revamped their training for the officers, it included mental health, and they get training above and beyond the police academy.

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### **Unfinished Business**

None.

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### **#72-2018**

### **A RESOLUTION TO RETURN UNUSED COMMITTED FUND BALANCE TO UNASSIGNED FUND BALANCE RELATED TO BAN INSURANCE COSTS**

#### **Motion of Councilperson McGinnis**

**WHEREAS**, the City of Batavia City Council resolved to commit \$20,000 of unassigned General Fund balance to Committed fund balance to cover the costs of issuing a BAN for the TIP and Healthy Schools projects in resolution #98-2017, November of 2017; and

**WHEREAS**, the City's expenses associated with the issuance of this BAN totaled \$9,649.40 for services rendered by the City's bond counsel, Underberg and Kessler and by the City's fiscal advisors, Municipal Solution; and

**WHEREAS**, there is a balance of unused committed fund balance for this purpose that need to be returned to unassigned fund balance in the amount of \$10,350.60.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Batavia does hereby transfer \$10,350.60, the remaining balance of Committed fund balance for the purpose of covering the issuance cost of the BAN acquired in May of 2018, to the Unassigned General Fund balance.

**Seconded by Councilperson Tabelski on roll call approved 8-0.**

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### **#73-2018**

### **A RESOLUTION TO RE-ESTABLISH THE CITY'S BUSINESS IMPROVEMENT DISTRICT FUND (27)**

#### **Motion of Councilperson Pacino**

**WHEREAS**, the City of Batavia is in the process of implementing the corrective plan of action in response to the New York State Office of the State Comptroller's Audit of the City's Business Improvement District; and

**WHEREAS**, the State recommends the City take custody of BID charges levied along with the excess charges levied in previous years and maintain those funds in a City account where receipts and disbursements can be properly accounted for; and

**WHEREAS**, in years past, the City had a Business Improvement District Fund (27) in their financial system software.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Batavia does hereby re-instate the establishment of the Business Improvement District Fund (27) for the purposes of taking custody of BID charges levied and to properly account for their receipt and disbursement as a course of corrective action.

**Seconded by Councilperson Briggs on roll call approved 8-0.**

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**#74-2018**

**A RESOLUTION AUTHORIZING OWNERSHIP AND INSTALLATION OF  
RECEPTACLES IN RIGHT OF WAY**

**Motion of Councilperson Canale**

**WHEREAS**, the City of Batavia Business Improvement District (BID) has purchased and would like to give the City of Batavia fourteen bicycle racks and six trash receptacles to be placed strategically throughout the BID district; and

**WHEREAS**, the trash receptacles match the existing trash receptacles currently utilized by the City; and

**WHEREAS**, the City of Batavia would take ownership of the receptacles; and

**WHEREAS**, the City of Batavia would install sixteen of the twenty bicycle racks and trash receptacles in the NYSDOT Right of Way and the City of Batavia's Right of Way; and

**WHEREAS**, the City of Batavia would add new receptacles to the current annual NYSDOT highway permit; and

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Batavia does hereby approve that the City will take ownership of the sixteen receptacles and they will be placed in the City and State's ROW and be added on the City's NYSDOT highway permit.

**Seconded by Councilperson McGinnis and on roll call approved 8-0.**

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**#75-2018**

**A RESOLUTION TO ENTER INTO A CJIS MANAGEMENT CONTROL AGREEMENT FOR INFORMATION TECHNOLOGY WITH GENESEE COUNTY**

**Motion of Councilperson Tabelski**

**WHEREAS**, the City of Batavia and Genesee County share Information Technology for the purpose of Law Enforcement Records through a shared network application; and

**WHEREAS**, the New York State Criminal Justice Information Systems (CJIS) Security Policy requires a Management Control Agreement relative to CJIS information obtained through the network; and

**NOW THEREFORE, BE IT RESOLVED**, that the City Council President for the City of Batavia is hereby authorized to sign an Agreement with Genesee County for the purpose of establishing the City of Batavia as having Management Control over CJIS information retrieved from the shared network for the City of Batavia as attached hereto.

**Seconded by Councilperson Briggs and on roll call approved 8-0.**

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**#76-2018**

**A RESOLUTION TO SUBMIT AN APPLICATION FOR NEXT ROUND OF TRANSPORTATION IMPROVEMENT PROGRAM WITH NEW YORK STATE DEPARTMENT OF TRANSPORTATION FOR CITY OF BATAVIA, HIGHWAY PREVENTIVE MAINTENANCE (FOUR STREETS)**

**Motion of Councilperson Bialkowski**

**WHEREAS**, the Department of Public Works anticipates a release of aid from the Transportation Improvement Program (TIP); and

**WHEREAS**, the City of Batavia has several streets or segments of streets that qualify for consideration; and

**WHEREAS**, an application for funding to the TIP (FHWA Aid) for the rehabilitation of four streets classified as federal aids eligible roadways will be required; and

**WHEREAS**, for the next round of the TIP funding the City is considering applying for rehabilitation to the following four roadways, Harvester Avenue, Jackson Street, Bank Street and Richmond Avenue; and

**WHEREAS** the City of Batavia is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of

80% Federal funds and 20% non-Federal funds.

**NOW THEREFORE, BE IT RESOLVED**, the City Council, duly convened does hereby concur to move forward with the submission of application for the above-referenced project; and

**BE IT FURTHER RESOLVED**, that the Council President of the City of Batavia is hereby authorized to execute all necessary requests for Federal aid on behalf of the City Council with the New York State Department of Transportation in connection with the rehabilitation of these above-mentioned roadways.

**Seconded by Councilperson Christian and on roll call approved 8-0.**

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**#77-2018**

**A RESOLUTION TO AUTHORIZE THE CITY COUNCIL PRESIDENT TO SIGN THE EASEMENT WITH SAVARINO COMPANIES/ELLCOTT STATION LLC**

**Motion of Councilperson Briggs**

**WHEREAS**, Ellicott Station LLC, having an address of 500 Seneca Street, Suite 508, Buffalo, New York 14204 (hereinafter referred to as “Grantor”) and City of Batavia, a municipal corporation with a mailing address at One Batavia City Centre, Batavia, New York 14020 (hereinafter referred to as “the City”); and

**WHEREAS**, Grantor is the owner of the property located at 40-52 and 56-70 Ellicott Street, Batavia, New York, having the tax identification numbers 84.015-1-2, 84.015-1-4, 84.015-1-5, 84.015-1-37.312 and 84.015-1-37.311 (the “Premises”); and

**WHEREAS**, a storm water sewer line for the City of approximately three feet by four feet crosses the Grantor’s property (the “Storm Line”); and

**WHEREAS**, the City wishes to operate and maintain the Storm Line; and

**WHEREAS**, Grantor intends to develop this property, including construction of a five story building of approximately 56,000 SF on the property directly over the storm line; and

**WHEREAS**, the City has consulted with its engineers who have reviewed Grantor’s proposed box culvert proposal for the storm line and advised that it is appropriate; and

**WHEREAS**, Grantor will install a five foot by five foot box culvert replacing the current conduit for the storm line under the building in accordance with plans dated February 23, 2018 per sheet S-121 and revised by addendum no. 2; and

**WHEREAS**, the execution of this easement is a requirement of the site approval issued by the City Planning and Development Committee, as well as legal document giving the City access for maintenance of this storm sewer in the future.

**NOW THEREFORE, BE IT RESOLVED**, that the City Council President for the City of Batavia is hereby authorized to sign the easement with Savarino Companies aka Ellicott Station LLC to move forward with the development.

**Seconded by Councilperson McGinnis and on roll call approved 8-0.**

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**#78-2018**

**A RESOLUTION APPROVING THE EXECUTION OF AN UNDERTAKING AGREEMENT BETWEEN THE CITY OF BATAVIA AND SAVARINO COMPANIES LLC REFERENCING NATIONAL GRID URBAN CENTER/COMMERCIAL DISTRICT PROGRAM PROJECT AND ELLICOTT STATION URBAN CORRIDOR PROJECT #4708**

**Motion of Councilperson Canale**

**WHEREAS**, the City of Batavia entered into a grant disbursement agreement with National Grid for a grant of up to \$250,000 for the Ellicott Station Urban Corridor Project located in the City of Batavia which is to consist of the redevelopment, repurposing and adaptive reuse of a former construction yard, power company service facility and adjacent properties as part of the City's Master and Brownfield Opportunity Plan and as part of the Ellicott Trail Corridor Project; and

**WHEREAS**, Savarino Companies LLC has agreed to undertake additional improvements to the Ellicott Trail Project; and

**WHEREAS**, the City of Batavia received confirmation from National Grid that the City has been awarded \$250,000; and

**WHEREAS**, Savarino Companies, as part of their development project will be including enhancements such as lighting, landscaping, seating, parking, etc. to further develop the Ellicott Trail area; and

**WHEREAS**, the City of Batavia is requiring Savarino Companies LLC to enter into an Undertaking Agreement to assume the obligations of the City under the grant; and

**WHEREAS**, the funds payable pursuant to the City pursuant to the Grant Agreement will be disbursed for the benefit of Savarino Companies solely to pay the costs of undertaking and completing the project by the Savarino Companies LLC

**NOW, THEREFORE, BE IT RESOLVED** that the City of Batavia Council hereby authorizes the Council President to execute an Undertaking Agreement with Savarino Companies LLC to access up to \$250,000 for approved and verified costs associated with improvements to this property addressing the removal of blight and enhancing the Trail.

**Seconded by Councilperson Canale and on roll call approved 8-0.**

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**#79-2018**

**A RESOLUTION TO DECLARE DEPARTMENT OF PUBLIC WORKS VEHICLES AND EQUIPMENT SURPLUS FOR THE PURPOSE OF SALVAGE AND DISPOSAL**

**Motion of Councilperson McGinnis**

**WHEREAS**, the Department of Public Works have declared the equipment listed below surplus and as part of the equipment replacement plan; and

**WHEREAS**, the City of Batavia requires a surplus declaration of property to be made prior to disposal or sale of vehicles and equipment; and

**WHEREAS**, any revenue received from disposal is to be put into the Department of Public Works equipment reserve fund, fund revenue to be used for approved equipment replacement.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Batavia that the City Manager is authorized to declare the following as surplus for the purpose of salvage and disposal; and

**BE IT FURTHER RESOLVED**, that the City Manager be and hereby is authorized to make the necessary budget transfers in the 2018-2019 budget;

- 1995 Caterpillar Wheel Loader, SN – 8TK3104 and accessories

**Seconded by Councilperson Pacino and on roll call approved 8-0.**

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**#80-2018**

**A RESOLUTION TO REFER A PROPOSED AMENDMENT OF THE ZONING MAP OF THE CITY OF BATAVIA TO THE PLANNING AND DEVELOPMENT COMMITTEE**

**Motion of Councilperson Briggs**

**WHEREAS**, the City of Batavia has received the attached Petition to amend the zoning map of the City of Batavia at 110 Liberty Street (SBL No. 84.066-1-11), 42 Central Avenue (SBL No. 84.066-1-47), 112-116 Liberty Street (SBL No. 84.066-1-12), 118 – 120 Liberty Street (SBL No. 84.066-1-13), 122 Liberty Street (SBL No. 84.066-1-14), 122-124 Liberty Street-Rear (SBL No. 84.066 -1-15), and 124-126 Liberty Street (SBL No. 84.066-1-16) from the current zoning of R-3 Residential District to C-3 Commercial District; and

**WHEREAS**, Section 190-51 of the Batavia Municipal Code provides that the City Council may from time to time make zoning map amendments after review and report by the City's Planning and Development Committee; and

**WHEREAS**, in accordance with Section 190-51 if the Planning and Development Committee fails to file a report within 30 days after referral from City Council, the proposed amendment is deemed approved, and the City Council may proceed in addressing the re-zoning request; and

**BE IT RESOLVED**, that the Petition and additional request to amend the zoning map related to 42 Central Avenue, 110,112-116,118-120, 122, 122-124 Rear, 124-126 Liberty Street is referred to the Planning and Development Committee for review, analysis and recommendation; and

**BE IT FURTHER RESOLVED** that the Planning and Development Committee shall report back to the Council on its recommendation regarding the proposed amendment to the zoning district map; and

**BE IT FURTHER RESOLVED** that the Planning and Development Committee shall take necessary steps to review and report back to Council regarding this matter within thirty days of the date of this referral.

**Seconded by Councilperson Canale and on roll call approved 8-0.**

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**Meeting adjourned at 7:28 PM.**

**Respectfully submitted,**

**Heidi J. Parker  
Clerk-Treasurer**