CITY OF BATAVIA
BUSINESS MINUTES
DECEMBER 8, 2014

The regular business meeting of the City Council was held Monday, December 8, 2014 at 7:00 PM in the Council Chambers, One Batavia City Centre, Batavia, New York, with Council President Hawley presiding.

Present were Council President Hawley and Councilpersons Pacino, Cipollone, Canale, Briggs, Jankowski, Doeringer, Deleo and Christian.

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

The minutes from the November 2014 meetings were approved.

The Council President assigned the regular agenda items.

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Communications

The Little Ridge, LLC submitted a Liquor License Application and there were no objections from the Police Department. Council approved.

The Centennial Committee and Vibrant Batavia submitted an application for an outdoor festival on Wednesday, December 31st from 2:00 pm – midnight in Court Street Parking lot and Evans Street. There will be tented vendors, family events, a musical presentation and bon fire to celebrate the City's 100th year. Council approved.

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Council President's Report

Council President Hawley announced that the next regular City Council Conference Meeting would be held on Monday, January 12, 2015 at 7:00 PM at the City Hall Council Board Room, 2nd Floor, City Centre.

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City Attorney's Report

Mr. Van Nest noted that they continued to work on a variety of matters across the board but there was nothing specific to report at that time.

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City Manager's Report

Mr. Molino noted that staff was in the process of preparing the budget, which would be forwarded to Council in January.

* * *

Committee Reports

Councilperson Pacino wanted to extend a thank you to the Committee members involved in the Christmas in the City event, as the event was a wonderfully huge success.

Councilperson Doeringer noted that the Centennial Committee and Vibrant Batavia were reminding the public of the events for the 100th Centennial celebration on December 31st. He noted that the outdoor festival would be open to the public beginning at 6:00 PM with kid friendly events in the Court Street Lot, skating at the Falleti Ice Arena and activities at St. Mary's Church.

Councilperson Jankowski asked if reports would be distributed showing the fundraising efforts of Vibrant Batavia, as they were to match funding with the City.

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Public Comments

Richard Richmond, 20 Washington Ave., indicated that the December 6th deadline for the property at 35 Swan Street had passed. He said that he was wondering if there had been any progress with the situation. He also noted that the Christmas in the City Event had been very nicely done.

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Council Responses to Public Comments

Councilperson Briggs asked what the status on the property on Swan Street was. City Manager, Jason Molino, indicated that the matter had been turned over to City Court.

* * *

Unfinished Business

None.

* * *

New Business

87-2014

RESOLUTION OF THE CITY OF BATAVIA CONSENTING TO TRANSFER OF CONTROL OF THE CABLE FRANCHISEE

Motion of Councilperson Briggs

WHEREAS, Time Warner Cable Inc. ("TWC"), through a wholly-owned subsidiary (the "Franchisee"), owns, operates, and maintains a cable system in the City of Batavia pursuant to a cable franchise granted by the City by means of a Cable Franchise Agreement (the "Franchise"); and

WHEREAS, pursuant to Agreement and Plan of Merger dated February 12, 2014 among TWC, Comcast Corporation ("Comcast") and Tango Acquisition Sub, Inc. ("Tango") (hereinafter referred to as the "Transaction"), TWC will merge with and into Tango, a wholly-owned subsidiary of Comcast, with TWC as the surviving company; and

WHEREAS, following the Transaction, TWC will be a wholly-owned subsidiary of Comcast with the Franchisee remaining as the Franchise holder responsible for performance of all obligations pursuant to the Franchise now under the ultimate ownership of Comcast; and

WHEREAS, TWC and Comcast have requested consent to the transfer of control by the City and have filed an FCC Form 394 Application ("Application") with the City requesting such consent; and

WHEREAS, the City has reviewed the Application, examined the legal, financial, and technical qualifications of Comcast to be the ultimate parent entity over the Franchisee, and has followed all required procedures in order to consider and act upon the Application.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. The City hereby consents to the transfer of control of the Franchisee arising from the Transaction effective as of the closing date of the Transaction, and to the corporate reorganization described in the Application in accordance with the terms of the Franchise and applicable law and regulations.

SECTION 2. The City hereby confirms that the Franchise is valid and in full force and effect and that there have been no amendments or modifications to the Franchise, except as set forth herein.

SECTION 3. The Franchisee shall continue to be bound by all responsibilities, obligations, liabilities, and rights contained in the Franchise after the closing of the Transaction, including any and all pre-closing non-compliance issues identified after the closing of the Transaction, until the Franchise is either renewed, not renewed, or terminated by the City pursuant to federal law and regulations.

SECTION 4. Comcast agrees that the Franchise shall be deemed amended to incorporate the following provisions:

(i) The Franchisee shall, within ninety (90) days following the closing of the Transaction, pay franchise fees to the City on a quarterly basis, accompanied by a detailed report showing the basis for such franchise fees paid, and in accordance with the definition of Gross Revenues set forth in Exhibit A attached hereto; and

(ii) The Franchisee shall, within ninety (90) days following the closing of the Transaction or as otherwise scheduled with the City, provide the City complimentary high speed internet service to one (1) outlet at a single municipal facility of the City's choosing along with all elementary and secondary schools and public libraries located within the City, contingent upon each such facility already having a drop from the cable system or being within 200 feet of existing cable distribution facilities; and

(iii) Comcast shall, within sixty (60) days of passing this Resolution, reimburse a portion of the City's attorneys' fees in the amount of $2,590 related to the City's consideration for reviewing all documents related to the Transaction; and

SECTION 5. Comcast acknowledges that the City has raised with the Franchisee the following non-compliance items: (i) failure to pay franchise fees owed to the City as set forth in Exhibit B attached hereto; (ii) failure to satisfy various PEG support obligations as set forth in Exhibit C attached hereto; and (iii) failure to satisfy various complimentary service obligations as set forth in Exhibit D attached hereto. While the Transaction is pending, the Franchisee shall continue to work in good faith to resolve these items of non-compliance with the City. In the event these items are not resolved by the time the Transaction closes, Comcast agrees that it will cause Franchisee to continue to work on an acceptable resolution of the items in a timely manner. Comcast agrees that the City's consent to the Transaction does not in any way waive these non-compliance items, and the City agrees that neither this consent nor the closing of the Transaction shall waive any defenses available to the non-compliance items.

SECTION 6. This Resolution does not relieve the Franchisee of responsibilities, obligations, liabilities, and rights, whether known or unknown, contained in the Franchise prior to the closing of the Transaction pursuant to federal law and regulations.

SECTION 7. The City does not, as a result of the transfer of control, or by virtue of this Resolution, waive, release or otherwise limit its rights with respect to any failure by the

Franchisee to comply with any and all of the terms and conditions of the Franchise prior to the closing of the Transaction.

SECTION 8. The City's consent to the transfer of control arising from the Transaction is contingent upon the parties to the Transaction obtaining all other necessary and applicable federal governmental approvals, permits, and authorizations, and is further contingent upon Comcast signing a Certificate of Acceptance of this Resolution.

SECTION 9. This Resolution shall take effect immediately.

Seconded by Councilperson Cipollone and on roll call approved 8-1. Councilperson Deleo voted no.

Discussion – Councilperson Deleo said that Paragraph 18 by the law firm had indicated that the NYS audit findings showed underpaid franchise fees. He asked if the City would be getting the unpaid franchise fees. City Manager, Jason Molino, indicated that the City would be looking to clarify the definition of franchise fees in the franchise agreement. He then indicated that the City was at a standstill and not pursued because of the difference in the fee interpretation. He then noted that Council was currently transferring control of the cable franchise not discussing terms within the renewal for the franchise agreement. Councilperson Deleo asked what the current percentage was. Mr. Molino indicated the City is assessing a franchise fee of 5% of the operator's gross revenue. Councilperson Deleo asked if the City should collect the unpaid fees before closing. Mr. Molino indicated that the City cannot legally hold up the franchise transfer at this time. Councilperson Jankowski said that things seemed pretty one sided without any repercussions to the cable company for underpayment of the franchise fees due the City. Councilperson Cipollone noted that assuming that the transfer was agreed to when would franchise renewal negotiations begin. Jason Molino indicated that discussions with outside Counsel representing both the City and Comcast would begin immediately. He noted that documentation for the franchise renewal could come before Council within the next six months or so.

Exhibit A

Gross Revenues - All revenue received by the Franchisee or its Affiliated Entities arising from, attributable to, or in any way derived from the operation of its Cable System in the City to provide Cable Services. Gross Revenues shall include, but are not limited to, the following:

(1) Basic Service fees;
(2) fees charged to Subscribers for any Cable Service tier other than Basic Service;
(3) fees charged for premium Cable Services;
(4) fees for all digital video tiers;
(5) fees for video-on-demand;
(6) fees charged to Subscribers for any optional, per-channel or per- program

Cable Services;

(7) revenue from the provision of any other Cable Services;
(8) charges for installation, additional outlets, relocation, disconnection, reconnection and change-in-service fees for Cable Service;
(9) fees for changing any level of Cable Service programming;
(10) fees for service calls on Cable Services;
(11) inside wire maintenance fees for Cable Services;
(12) service plan protection fees on Cable Services;
(13) convenience fees;
(14) early termination fees on Cable Services;
(15) fees for leased access Channels;
(16) charges based on the sale or lease of any portion of the Cable System for Cable Service;
(17) rental or sales of any and all equipment, including converters and remote control devices;
(18) any and all locally-derived advertising revenues for advertising delivered by Cable Services;
(19) revenues or commissions from locally-derived home shopping channels;
(20) revenue from interactive Cable Services;
(21) broadcast retransmission fees;
(22) late payment fees on Cable Services;
(23) billing and collection fees on Cable Services;
(24) NSF check charges; and
(25) Franchise Fees.

Gross Revenues shall not include bad debts, program launch fees, investment income, refunded deposits, or any taxes on services furnished by Comcast and imposed directly upon any Subscriber or user by the City, state, federal or other governmental unit. In the event of any dispute over the classification of revenue, the City and Comcast agree that reference should be made to generally accepted accounting principles ("GAAP") as promulgated and defined by the Financial Accounting Standards Board ("FASB").

Exhibit B

September 30, 2014

John E. Fogarty
Vice President and Assistant Chief Counsel
Time Warner Cable
60 Columbus Circle
New York, NY 10023

VIA ELECTRONIC AND REGULAR MAIL

RE: Time Warner Franchise Non-Compliance in the City of Batavia

Dear John:

Our law firm represents the City of Batavia (the "City") with respect to the request for approval of the cable franchise transfer from Time Warner Cable ("Time Warner") to Comcast Corporation ("Comcast"). For at least the past 8 years, Time Warner has been in non-compliance with its cable franchise with the City due to the underpayment of franchise fees. This underpayment is based on Time Warner's failure to apply the franchise fee to several sources of revenue that Time Warner has received from the operation of its cable system to provide cable services in the City. They are: 1) the franchise fee revenue source; 2) late payment charges, collection fees, and collection agency fees; and 3) the FCC regulatory fee (along with in certain years the New York Public Service Commission ("NYPSC") assessment fee).

These underpayments were brought to Time Warner's attention pursuant to a franchise fee audit conducted by the NYPSC for calendar years 2006 through and including 2008. Unless Time Warner remits full payment to the City as set forth below and thereby rectifies this long term franchise non-compliance issue, we will recommend that the City reject the transfer of its cable franchise to Comcast. For the City to do otherwise would be tantamount to the City accepting Time Warner's long-term breach of its franchise with the City and ignoring the documented cable-related needs and interests of the citizens of the City.

As the NYPSC submitted its findings to Time Warner via letter dated May 5, 2011 and Time Warner in turn responded to the City via letter dated July 16, 2012, it serves no useful purpose for the City to rehash the content of that correspondence here or to engage in yet another round of claim and denial with Time Warner. Rather, the following is to address each category of non-compliance and the amount of underpaid franchise fees associated with each category. The time for Time Warner to pay its outstanding debt and bring its cable operations into compliance with its franchise obligations is now.

1000 Gamma Drive ▪ Suite 305 ▪ Pittsburgh PA 15238
T: 412.447.0130 ▪ F: 412.447.0129 ▪ www.cohenlawgroup.org

NYPSC Franchise Fee Audit Findings

The NYPSC franchise fee audit findings showed underpayments of $2,381.41, $2,224.19 and $11,748.63 for calendar years 2006, 2007 and 2008, respectively, for a total of $16,354.23. The basis for such underpayments is that Time Warner neglected to include the following franchise fee sources in its calculations: late payment charges, collection fees, collection agency fees, franchise fees and FCC fees passed through to subscribers for all years along with NYPSC assessment fees passed through to subscribers for calendar year 2008.

Time Warner Response

Time Warner responded by acknowledging a total amount owed of $11,294.82 - with no breakdown supporting its position on a year by year basis - contending that Time Warner agreed with the NYPSC regarding franchise fees and FCC fees passed through to subscribers though no mention was made regarding the NYPSC assessment fees passed through to subscribers. Time Warner disagreed with the NYPSC regarding late payment charges, collection fees and collection agency fees on the basis that Time Warner doesn't book such items as revenue and therefore such items are not subject to franchise fee payments.

Our firm reviewed the work papers provided by the NYPSC as part of its franchise fee audit report. The result of such review allowed us to back into Time Warner's calculations of $780.78, $420.31 and $10,093.73 for calendar years 2006, 2007 and 2008, respectively, for the aforementioned total of $11,294.82 with such amounts derived by subtracting the respective contested amounts by category from the NYPSC audited revenue calculation.

Time Warner further offered to pay an additional aggregate $605.98 for calendar years 2009, 2010 and 2011 based on Time Warner's acknowledged non-payment for franchise fees and FCC fees passed through to subscribers - again with no mention of the NYPSC assessment fees.

In conclusion of such retroactive and prospective offer, Time Warner advised that franchise fees passed through to subscribers would be increased by $.22 per subscriber per month for 1 year.

Late Payment Charges, Collection Fees and Collection Agency Fees

These fees are clearly included in gross revenues pursuant to the Communications Act, and the franchise agreement between the City and Time Warner. Section 622 of the Communications Act, 47 U.S.C. §542, authorizes local franchise authorities such as the City to assess a franchise fee of up to five percent (5%) of the "cable operator's gross revenues derived in such period from the operation of the cable system to provide cable services." Given that late payment charges, collection fees and collection agency fees are paid in connection with cable subscribers' payments for cable services, they are subject to the federal franchise fee requirement.

Revenues derived from late payment charges, collection fees and collection agency fees are inherent in this comprehensive definition of "gross revenues." They function as cash arising from the provision of cable services and derived from the operation of the cable system. If a subscriber does not pay a cable bill on time, that subscriber must pay late and/or collection fees in connection with the cable service. The audit conducted by the NYPSC determined that late payment charges, collection fees and collection agency fees are included in the definition of "gross revenues" and that Time Warner owes franchise fees on such revenues absent express language in the franchise agreement to the contrary as such treatment is in fact consistent with GAAP rather than Time Warner's contention that because various items aren't recognized by Time Warner as revenues then they aren't revenues per GAAP.

Franchise Fees and FCC Fees Passed Through to Subscribers

As there is no disagreement by Time Warner that franchise fees and FCC fees passed through to Subscribers are gross revenue items subject to franchise fee payments, there is no need to discuss these items other than as follows.

As it remains unclear what Time Warner's position is relative to the NYPSC assessment fee, it further remains unclear whether this is simply an inadvertent omission or whether Time Warner agrees or disagrees whether such item should be included in gross revenues subject to franchise fee payments.

As regards the franchise fees and FCC fees passed through to Subscribers for purposes of calendar years 2009, 2010 and 2011, it is impossible to calculate the amount of such items without the requisite supporting data. Furthermore, and noting that Time Warner's offer to pay $605.98 for such years was made on July 16, 2012, such amounts presumably are also owed for the full calendar year 2013 and for year to date 2014.

Pass Through Issue

As you know, the Communications Act permits cable operators to pass through current franchise fees to cable subscribers as a separate line item on their bills. Section 622(c) of the Act, 47 U.S.C. §542(c), states that cable operators "may identify...as a separate line item on each regular bill of each subscriber...the amount of the total bill assessed as a franchise fee..." This pass-through provision is not applicable to Time Warner's unpaid franchise fees to the City.

First, Time Warner decided over the course of at least 8 years not to pay the full fees owed to the City and not to pass the unpaid portion of these fees through to subscribers. It was an affirmative decision on the part of Time Warner not to comply with the franchise. Time Warner may not now be rewarded for its non-compliance by being permitted to pass through 8 years of unpaid fees to City cable customers. Second, the subscriber pool in the City has transformed over the course of Time Warner's years of non-compliance. Certain residents who were Time Warner subscribers 8 years ago no longer are subscribers and vice versa. The Communications Act only permits a separate line item of franchise fees on the "regular bills of each subscriber." A bill that includes years of retroactive unpaid franchise fees is not a "regular

bill." Time Warner cannot saddle current subscribers with franchise fees that could only be applied to prior subscribers.

Demand for Franchise Fees Owed

The City demands that Time Warner agree to remit payment of the following amounts to the City prior to the City approving the transfer of the Time Warner franchise to Comcast. For calendar years 2006 through and including 2008, the amount owed as set forth in the NYPSC audit of $16,354.23. For calendar years 2009 through and including year to date 2014, the City demands that Time Warner agree to remit payment of amounts corresponding to these same omitted gross revenue items along with supporting data for such amounts.

Notwithstanding the foregoing, the City is amenable to reducing the amount of such demand for all years by the corresponding amount for the collection fees and the collection agency fees - albeit expressly conditioned on there being no pass-through to subscribers for any amounts paid by Time Warner for any cure of any identified underpayments for the remaining gross revenue sources.

This concludes the City's demand for payment of unpaid franchise fees. I look forward to discussing these issues with you as soon as a call can be arranged.

Sincerely yours,

Phillip M. Fraga CVB

Phillip M. Fraga

cc: Nick Leuci, Vice President, Government and Regulatory Affairs, Comcast
Jason Molino, City Manager

Exhibit C

City of Batavia

June 18, 2007

Terence Rafferty, Sr. VP & General Manager
Time Warner Cable
71 Mt. Hope Avenue
Rochester, New York 14620

RE: Noncompliance with provisions of Cable Franchise Agreement between Time-Warner Cable and City of Batavia, NY

Dear Mr. Rafferty,

It has come to my attention that between November 2006 and February 2007, Time Warner Cable (TWC) has laid off Batavia production employees and removed production and editing equipment and from the Batavia office studio.

TWC therefore appears to be in violation of the following articles under the franchise agreement currently in effect.

1. Section 14, Part 1 (C)(1), p. 14
   "...the Company will (1) maintain a studio within the City capable of producing live and/or taped... programming..."

2. Section 14, Part 1 (C)(3), p. 14
   "Make available on a full time basis (40 hours per week) a qualified person or persons responsible for promotion, coordinating and instructing in the access facility."

3. Section 14, Part 1 (C)(4), p. 14
   "Make available to qualified persons or groups, the use of studio facilities and/or use of equipment to produce PEG access programming subject to availability and scheduling."

As you are aware, TWC is permitted to operate in the City of Batavia under Temporary Operating Authority of the NYS Public Service Commission, under the previous Franchise agreement which expired September 2003, per Case # 03-V-1075.

The most recent extension of permission to operate in the City of Batavia expires Sept. 27, 2007.

Office of the City Manager
One Batavia City Centre
Batavia, New York 14020

Phone: 585-345-6330
Fax: 585-343-8182
www.batavianewyork.com

We would appreciate your contacting this office at your earliest convenience to begin discussions regarding (1) remediation of these violations, and/or (2) alternative compensation to the City of Batavia for cessation of agreed-upon services which were terminated in violation of the Franchise Agreement, and/or (3) exploration of other options.

It would also seem to our mutual advantage to renew a nonexclusive franchise agreement. The City of Batavia is willing to renew the dialog, which ceased in 2004, regarding this matter.

Thank you for your thoughtful consideration and we look forward to your response.

Sincerely,

Jason Molino
City Manager

C: Carol McTague, Public Service Commission
City Attorney
City of Batavia Cable Advisory Committee
Batavia City Council

Office of the City Manager
One Batavia City Centre
Batavia, New York 14020

Phone: 585-345-6330
Fax: 585-343-8182
www.batavianewyork.com

Exhibit D

City of Batavia

September 24, 2014

John Fogarty, Esquire
Vice President and Assistant Chief Counsel - Regulatory/Legal
Time Warner Cable
60 Columbus Circle
New York, NY 10023

RE: City of Batavia - Service to Public Facilities

Dear Mr. Fogarty:

Pursuant to Section 15 of the Franchise Renewal Agreement between the City of Batavia and Genesee County Video Corporation d/b/a CVI, Cablevision Industries, Inc. (as succeeded by Time Warner Cable, Inc.) dated September 10, 1993, the City of Batavia hereby requests provision of the service contemplated in such Section to the locations set forth in such Section unless otherwise set forth herein.

- Batavia High School, 260 State Street
- Batavia Middle School 96 Ross Street
- John Kennedy Intermediate School, 166 Vine Street
- Jackson Primary School, 411 S. Jackson Street
- City Hall, One Batavia City Centre
- Police Station, 10 W. Main Street
- Fire Station, 18 Evans Street
- Water Treatment Plant, 480 Lehigh Avenue
- Waste Water Treatment Plant, 5 Treadeasy Drive
- Youth Bureau, 12 MacArthur Drive
- Bureau of Maintenance, 147 Walnut Street

Should you have any questions or concerns, please contact me at (585) 345-6330.

Sincerely yours,

Jason Molino

Jason Molino
City Manager

cc: Phillip M. Fraga, Esq.

Office of the City Manager
One Batavia City Centre
Batavia, New York 14020

Phone: 585-345-6330
Fax: 585-343-8182
www.batavianewyork.com

#88-2014

RESOLUTION SCHEDULING REGULAR COUNCIL MEETINGS THROUGH DECEMBER 31, 2015

Motion of Councilperson Cipollone

WHEREAS, the Batavia City Council, pursuant to the City Charter, is required to schedule regular Council meetings through the standard resolution process; and

WHEREAS, City Council historically meets on the second and fourth Monday of each month except during the months of July, August and December where the Council meets only on the second Monday; and

WHEREAS, City Council must designate the specific location and time of meetings on an annual basis.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia hereby designates the Council Board Room located at City Hall, One Batavia City Centre, as the regular meeting place for the scheduled Council meetings through December 31, 2015; and

BE IT FURTHER RESOLVED, that the City Council shall meet at 7:00 p.m. at the City Council Board Room on the designated dates as outlined on Attachment "A" through December 31, 2015.

Seconded by Councilperson Deleo and on roll call approved unanimously.

Attachment "A"

2015 CITY COUNCIL MEETING DATES

Meeting Date

January 12, 2015
January 26, 2015

February 9, 2015
February 23, 2015

March 9, 2015
March 23, 2015

April 13, 2015
April 27, 2015

May 11, 2015
May 26, 2015 (Tuesday)

June 8, 2015
June 22, 2015

July 13, 2015

August 10, 2015

September 14, 2015
September 28, 2015

October 13, 2015 (Tuesday)
October 26, 2015

November 9, 2015
November 23, 2015

December 14, 2015

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#89-2014

RESOLUTION AUTHORIZING CHANGES TO THE CITY OF BATAVIA'S STREET LIGHT ACCOUNT #1/2 JACKSON SQUARE WITH NIAGARA MOHAWK POWER CORPORATION

Motion of Councilperson Pacino

WHEREAS, several residential units have been built in Jackson Square; and

WHEREAS, the lighting in Jackson Street Alley has been determined inadequate for pedestrians using the alley to access their residence; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia that Niagara Mohawk Power Corporation is hereby authorized and directed to do the following work in the City of Batavia, St. Light Account no: 23938-79100. Install one-100 watt high pressure sodium lamp and luminaire on pole #1/2 in Jackson Square with an estimated annual cost of $125.00.

Seconded by Councilperson Briggs and on roll call approved unanimously.

* * *

#90-2014

RESOLUTION TO ENTER INTO A WASTEWATER FACILITY AGREEMENT AND METERING AGREEMENT WITH THE TOWN OF BATAVIA

Motion of Councilperson Deleo

WHEREAS, on October 18, 1983 the City and Town entered into a wastewater agreement, which outlined the ownership and operation of a new joint Wastewater Treatment Facility (WTF), Central Lift Station (CLS) and certain sanitary sewer interceptor transmission lines (interceptors); and

WHEREAS, the City built and now operates the joint WTF,CLS and Interceptors, which collectively serve the City and Town; and

WHEREAS, the joint WTF is designed with a daily treatment capacity of 5,500,000 gallons per day (gpd), defined by the City's State Pollution Discharge Elimination System (SPDES) permit as an influent monthly annual rolling average; and

WHEREAS, the City, owns approximately 5,150,000 gpd or 93.64% of the total daily capacity at the WTP, CLS and Interceptors; and

WHEREAS, the Town, owns approximately 350,000 gpd or 6.36% of the total daily capacity at the WTP, CLS and Interceptors; and

WHEREAS, the City manages and directs all operational and permit related activities associated with the WTP, CLS and Interceptors; and

WHEREAS, due to development in the Agri-Business Park and future commercial planned business, industrial and residential development, the Town sanitary sewer flows are expected to further increase; and

WHEREAS, the October 18, 1983 wastewater agreement allows for and the Town has requested to purchase additional capacity from the City at the WTP, CLS and Interceptors.

WHEREAS, all sanitary flow entering the City from the Town interconnections will be measured by master meters; and

WHEREAS, the Town agrees with the capacity purchase methodology for current and future capacity purchases, the "Utility Basis" methodology for current and future rate determinations, 15.45% capacity ownership of the Clinton Lift Station and Interceptor, and the Master Meter Technology Review.

NOW, THEREFORE, BE IT RESOLVED, that the City Council President for the City of Batavia is hereby authorized to sign the Wastewater Facility Agreement and the Wastewater Metering Agreement between the City of Batavia and the Town of Batavia.

Seconded by Councilperson Christian and on the roll call approved unanimously.

* * *

Meeting adjourned at 7:25 PM.

Respectfully submitted,

Aimslee M. Cassidy
Deputy Clerk-Treasurer