

# **CITY OF BATAVIA BUSINESS MINUTES DECEMBER 9, 2019**

The regular business meeting of the City Council was held Monday, December 9, 2019 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, Viele, Canale, Christian, McGinnis, Karas, and Bialkowski.

In attendance from the City of Batavia were Matt Worth, Chief Napolitano, Chief Heubusch, Rachael Tabelski, Andrew Maguire, and Lisa Neary.

Council President Jankowski called the meeting to order at 8:48 immediately following the conference meeting.

The minutes from the November 2019 meetings and the October financials were approved.

The Council President assigned the regular agenda items.

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## **City Attorney's Report**

George Van Nest, City Attorney, noted there was nothing specific to report at this time.

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## **City Manager's Report**

Martin Moore, City Manager, noted that Batavia Players had signed the lease agreement with the City.

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## **Committee Reports**

Councilperson Pacino thanked everyone who came to Christmas in the City.

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## **Public Comments**

None.

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## **Council Responses to Public Comments**

None.

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## **Unfinished Business**

Councilperson Canale asked where things stood with stadium parking, S-curve issue, deer situation and leaf pickup. Mr. Worth noted that they were looking at the leaves today and the forecast was alright so maybe could resume leaf pickup on Thursday or Friday of this week if the forecast held. He noted that if there was an option to get back out and collect leaves they would. Chief Heubusch explained that they would be writing a traffic order to get parking restrictions around the stadium. Regarding Jackson school parking, the Chief noted that signs are missing by the guardrails and he would follow up with the school because a lot of people park and drop off there. Chief Heubusch stated that, with regards to the S-curve, they had gotten data going both ways through that area and there were a lot of close calls but minimal accidents because the average speed was 18mph. Mr. Moore noted that the deer committee would be appointed tonight.

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### **#126-2019**

## **A RESOLUTION TO CONTRACT FOR PROSECUTORIAL SERVICES WITH GENESEE COUNTY**

### **Motion of Councilperson McGinnis**

**WHEREAS**, the City of Batavia has contracted with Genesee County for the past several years for Prosecutorial Services; and

**WHEREAS**, the Contract between the City and County for these services expires December 31, 2019; and

**WHEREAS**, the City is desirous of continuing with the Inter-Municipal City Court Prosecutorial Services Agreement;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council President for the City of Batavia is hereby authorized to sign an Inter-Municipal City Court Prosecutorial Services Agreement between the City of Batavia and Genesee County.

**Seconded by Councilperson Viele and on roll call approved 9-0.**

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**#127-2019**  
**A RESOLUTION AWARDED PURCHASE OF TWO COMPACT TRACK LOADERS**

**Motion of Councilperson Canale**

**WHEREAS**, the City of Batavia has an established the Equipment DPW Reserve Fund; and

**WHEREAS**, the City Council of the City of Batavia has already approved to use reserve funds in the 2019-2020 budget to replace the ASV unit; and

**WHEREAS**, the City has advertised for competitive, sealed bids for the purchase of two Compact Track Loaders to replace the ASV Unit for snow removal; and

**WHEREAS**, Four (4) companies submitted bids, and Java Farm Supply was the lowest responsible bidder at \$59,420.00; and

**NOW THEREFORE, BE IT RESOLVED**, by the City Council of the City of Batavia that the City Manager be and hereby is authorized to use \$59,420 of Equipment DPW Reserve Fund monies to purchase two compact track loaders.

**Seconded by Councilperson McGinnis and on roll call approved 9-0.**

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**#128-2019**  
**A RESOLUTION ESTABLISHING THE CITY OF BATAVIA AS LEAD AGENCY UNDER THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (“SEQR”) FOR AN AMENDMENT TO THE ZONING SECTION 190 TO INCLUDE SELF-STORAGE IN AN I-1 AND I-2 DISTRICT AND DETERMINING SIGNIFICANCE UNDER SEQR**

**Motion of Councilperson Briggs**

**WHEREAS**, the City of Batavia has proposed to amend Chapter 190-3, 190-15, and 190-42 to include self-storage in the I-1 and I-2 district; and

**WHEREAS**, the amendment of the City’s zoning map with respect to the foregoing parcels is an Unlisted Action under SEQR; and

**WHEREAS**, in accordance with SEQR the City Council of the City of Batavia has declared its intent to act as lead agency for the Action; and

**WHEREAS**, a Short Environmental Assessment Form has been completed for the Action, a copy of which is attached hereto as Schedule A; and

**WHEREAS**, the City Council has carefully reviewed the potential environmental impacts of the proposed action against the criteria set forth in 6 NYCRR 617.7(c) and has taken a hard look at the potential environmental impacts required by SEQR, and

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Batavia in accordance with SEQR and 6 NYCRR 617.6 hereby establishes itself as Lead Agency for the purpose of completing SEQR review of the amendment to Chapter 190; and

**BE IT FURTHER RESOLVED**, that the City Council having reviewed a completed Short Environmental Assessment Form and accompanying narrative which is part of the record of this Action and having considered the environmental impacts of the proposed action against the criteria in 6 NYCRR 617.7(c), finds that the proposed action will not result in any significant adverse environmental impact; and

**BE IT FURTHER RESOLVED**, the City Council does hereby authorize and direct the City Clerk to duly file this Negative Declaration.

**Seconded by Councilperson Christian and on roll call approved 9-0.**

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**#129-2019**

**A RESOLUTION TO ADOPT AN ORDINANCE AMENDING CHAPTER 190  
ENTITLED “ZONING” OF THE CITY OF BATAVIA MUNICIPAL CODE TO  
INCLUDE SELF-STORAGE IN AN I-1 AND I-2 DISTRICT**

**Motion of Councilperson Viele**

**BE IT RESOLVED** that a proposed Ordinance entitled “**AN ORDINANCE AMENDING CHAPTER 190 ENTITLED “ZONING” OF THE CITY OF BATAVIA MUNICIPAL CODE TO AMEND I-1 AND I-2 TO INCLUDE SELF STORAGE IN THE CITY OF BATAVIA**” is introduced before the City Council of the City of Batavia, New York; and

**BE IT FURTHER RESOLVED** that copies of the aforesaid proposed Ordinance be laid upon the desk of each member of the City Council; and

**BE IT FURTHER RESOLVED** that the City Council held a public hearing on said proposed Ordinance at the City Hall, One Batavia City Centre, Batavia, New York, at 7:00 P.M. on Monday, October 28, 2019; and

**BE IT FURTHER RESOLVED** that the City Clerk published a public notice in the official newspaper of the City of said public hearing at least five days prior thereto.

**BE IT FURTHER RESOLVED** that the City Council Adopts Ordinance #2-2019 entitled An Ordinance Amending Chapter 190 Entitled “Zoning” of the City Batavia Municipal Code to amend I-1 AND I-2 to include self-storage in the City of Batavia.

**Seconded by Councilperson Bialkowski and roll call approved 9-0.**

## **ORDINANCE #2-2019**

### **AN ORDINANCE AMENDING CHAPTER 190 ENTITLED “ZONING” OF THE CITY OF BATAVIA MUNICIPAL CODE TO INCLUDE SELF-STORAGE IN AN I-1 AND I-2 DISTRICT**

**Be It Enacted** by the City Council of the City of Batavia, New York as follows:

#### **SECTION 1.**

#### **190-3. Definitions**

**PUBLIC STORAGE RENTAL UNITS/BUILDING - A building or buildings comprised of separate rental units of varying size for private storage of personal property by the general public.**

#### **190-15. I-1 Industrial Districts**

C. Uses permitted by special use permit.

(1) Junkyards, salvage and scrap processing, outside storage.

(2) Uses which may cause a danger to the public due to the hazards of fire and explosion.

(3) Automobile service stations.

(4) Live/work units. Live/work units must comply with § 190-37, Subsection J, entitled "Standards applicable for all special use permits."

(5) Brew pub, micro brewery. Brew pubs and micro breweries must comply with § 190-37, Subsection J, entitled "Standards applicable for all special use permits."

(6) **Public storage rental units/buildings with or without outside storage.**

#### **190-37. Special Use Permits.**

**M. Public storage rental units/buildings. Public storage rental units/buildings may be permitted by Special Use Permit in the I-1 and I-2 districts provided:**

**(1) A site plan be prepared and show the arrangement of storage buildings and outside storage areas, exterior lighting, landscaping, screening, fencing, and garbage/trash storage areas, in addition to the site plan requirements of 190-44.**

- (2) Buildings are not to exceed 1 story in height and not more than 20 feet above grade.
- (3) Buildings and outside storage areas are to be a minimum of 100 feet from any residential use property.
- (4) Storage of the following will be prohibited:
  - (a) Flammable liquids, gases or solids in excess of those permitted by the International Fire Code.
  - (b) Storage of food products.
  - (c) Outside storage of junk automobiles/vehicles, auto parts, or mechanical equipment other than recreational vehicles, motor homes, travel trailers, campers, boats.
  - (d) Storage of garbage, trash or recyclable materials.
- (5) Off street parking shall be provided for visitors at the rate of 1 space per 20 rental units.
- (6) No materials or products of any kind may be displayed or offered for sale on site.
- (7) Outdoor lighting shall be designed so the maximum illumination at the property line does not exceed "0" foot-candles on adjacent residential use properties.

#### **190-42. Miscellaneous regulations.**

- D. More than one building on a lot. When there is more than one principal building on a lot in any district, the space between such buildings shall be no less than the sum of the side yards required, or the sum of the rear and the front yards, as the case may be and minimum lot area requirements shall apply to each structure.
  - (1) **Public storage rental units/buildings are exempt from this requirement and must be constructed in compliance with the separation requirements of the New York State Building and Fire Codes.**

#### **SECTION 2. EFFECTIVE DATE**

This Ordinance shall take effect immediately after the date of passage and in accordance with law.

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**#130-2019**

**A RESOLUTION TO AUTHORIZE THE COUNCIL PRESIDENT AND CITY  
MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS TO RECEIVE THE  
EMPIRE STATE DEVELOPMENT CORPORATION (ESDC) DOWNTOWN  
REVITALIZATION INITIATIVE (DRI) REIMBURSEMENT GRANT TO RENOVATE  
AND UPGRADE THE CITY CENTRE CONCOURSE IN DOWNTOWN BATAVIA**

**Motion of Councilperson Canale**

**WHEREAS** the City received a \$1,000,000 Empire State Development Corporation (ESDC) Downtown Revitalization Initiative (DRI) reimbursement grant to renovate the City Centre concourse in downtown Batavia; and; and

**WHEREAS**, the City of Batavia has and is completing studies and designs for the renovation of the City Centre Concourse; and

**WHEREAS**, the project scope of work includes removing and replacing floor tile, upgrading the concourse roof, and improving the entrances at the City Centre building; and

**WHEREAS**, an Incentive Proposal needs to be signed by the City Manager to accept the Incentive Proposal; and

**WHEREAS**, supporting documentation for the grants needs to be signed by the City Manager or the Council President;

**BE IT RESOLVED**, that the Council authorizes the Council President and City Manager to execute all necessary documents to receive the grant.

**Seconded by Councilperson Pacino and on the roll call approved 9-0.**

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**#131-2019**

**A RESOLUTION TO RATIFY THE EXECUTED AMENDED AND RESTATED SALES TAX ALLOCATION AGREEMENT BETWEEN THE COUNTY OF GENESEE AND CITY OF BATAVIA**

**Motion of Councilperson McGinnis**

**WHEREAS**, the County of Genesee (hereinafter "County"), and the City of Batavia (hereinafter "City"), entered into an "Amended and Restated Agreement - Sales Tax Allocation County of Genesee and City of Batavia" dated October 29, 2019, hereinafter "2019 Agreement", a copy of which is attached and made a part hereof, and

**WHEREAS**, this 2019 Agreement provides for the division of the net proceeds of sales tax imposed by the County, by and among the County and the City for a period of forty years commencing on January 1, 2020 through December 31, 2059, and

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Batavia hereby authorizes and ratifies the terms and conditions of the Amended and Restated Sales Tax Allocation Agreement between the County of Genesee and the City of Batavia, executed on October 29, 2019, as set forth in the attached Agreement.

**Seconded by Councilperson Viele and on roll call approved 9-0.**

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**#132-2020**  
**A RESOLUTION SCHEDULING REGULAR COUNCIL MEETINGS THROUGH**  
**DECEMBER 31, 2020**

**Motion of Councilperson Viele**

**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, 2020; 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, 2020.

**Seconded by Councilperson Bialkowski and on roll call approved 9-0.**

**2020 City of Batavia Council Meetings**

January 13, 2020 (Business)

January 27, 2020 (Conference)

February 10, 2020 (Business)

February 24, 2020 (Conference)

March 9, 2020 (Business)

March 23, 2020 (Conference)

April 13, 2020 (Business)

April 27, 2020 (Conference)

May 11, 2020 (Business)

**Tuesday, May 26, 2020 (Conference)**

June 8, 2020 (Business)

June 22, 2020 (Conference)



July 13, 2020 (Business and Conference)  
August 10, 2020 (Business and Conference)  
September 14, 2020 (Business)  
September 28, 2020 (Conference)  
**Tuesday**, October 13, 2020 (Business)  
October 26, 2020 (Conference)  
Monday, November 9, 2020 (Business)  
November 23, 2020 (Conference)  
December 14, 2020 (Business and Conference)

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**#133-2019**  
**A RESOLUTION TO APPOINT MEMBERS TO VARIOUS CITY COMMITTEES/  
BOARDS**

**Motion of Councilperson Pacino**

**WHEREAS**, certain vacancies exist on various City Committees/Boards.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Batavia that the following appointments be made:

**Youth Board**

David Twichell	December 31, 2022
Paula Fischer	December 31, 2022
Kathryn Fitzpatrick	December 31, 2022

**Deer Management Committee**

Russell Nephew Jr	October 31, 2022
Kent Klotzbach	October 31, 2022
Frederick Gundell	October 31, 2022
Samuel R DiSalvo	October 31, 2022
Gus Galliford	October 31, 2022

**Seconded by Councilperson Briggs and on roll call approved 9-0.**

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**1#134-2019**

**A RESOLUTION APPOINTING THE PART-TIME CITY COURT JUDGE**

**Motion of Councilperson Bialkowski**

**WHEREAS**, Section 2104(c) of the Uniform City Court Act provides for the appointment of a City Court Judge who, in the temporary absence or inability of the City Judge, shall exercise all power of said Judge, and

**WHEREAS**, Section 2104(e)(1) (ii) and Section 2104(b)(3) of the Uniform City Court Act provides that the City Court Judge shall be appointed by Council and serve for a six (6) year term, and

**WHEREAS**, David J. Saleh will be appointed to this position on January 1, 2020 and their term as City Court Judge is due to expire on December 31, 2025.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Batavia that David J. Saleh, a resident attorney, possessing the necessary qualifications, is hereby appointed to the position of City Court Judge, for a six year term commencing on January 1, 2020 and expiring on December 31, 2025, with all of the powers and authority granted by Local and State Law.

**Seconded by Councilperson Christian and on roll call approved 9-0.**

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**#135-2019**

**A RESOLUTION TO TRANSFER EXPENSE FROM RETIREMENT CONTRIBUTION  
RESERVE TO FIRE WORKERS COMPENSATION EXPENSE**

**Motion of Councilperson Christian**

**WHEREAS**, resolution #54-2019, approved by City Council on April 8, 2019, authorized the City Manager to make a budget transfer related to unexpected retirement costs of \$225,000; and

**WHEREAS**, pursuant to General Municipal Law 6-r, the City of Batavia can only utilize these reserve funds for payments made to either the New York State and Local Employees' Retirement System or the New York State and Local Police and Fire Retirement System, and

**WHEREAS**, this specific payment was not made to the New York State and Local Employees' Retirement System or the New York State and Local Police and Fire Retirement System; and

**WHEREAS**, it is necessary to reverse the prior approved budget transfer and record the appropriate transfer out of Fire Department Workers Compensation expense, and utilizing Appropriated Fund Balance.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Batavia that the City Manager is hereby authorized to make the following budget transfer and correction effective the date of the original transfer April 9, 2019.

Decreasing expenditure account:

Fire Department	001.3410.0801.2110	\$225,000
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Decreasing revenue account:

Appropriated Retirement Contribution Reserve	001.0001.0511.2110	\$225,000
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Increasing expenditure account:

Fire Department Workers Compensation	001.3410.0803.0000	\$225,000
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Increasing revenue account:

Appropriated Fund Balance	001.0001.0915.0001	\$225,000
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**Seconded by Councilperson Pacino and on roll call approved 9-0.**

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**#136-2019**

**A RESOLUTION AUTHORIZING ADDITIONAL POLICE OFFICER POSITION FOR THE POLICE DEPARTMENT**

**Motion of Councilperson Briggs**

**WHEREAS**, there is an anticipated retirement within the Police Department; and

**WHEREAS**, the staffing in the Police Department is critical to public safety and the training of a new police officer can take up to a year to complete; and

**WHEREAS**, the authorization of one (1) additional police officer position will allow for a new police officer to begin their training ahead of two anticipated retirements, thereby shortening the period of time between a retirement and replacing the retired officer.

**NOW THEREFORE, BE IT RESOLVED**, that the Council of the City of Batavia does authorize one (1) additional police officer position for the Police Department effective immediately.

**Seconded by Councilperson Christian and on roll call approved 9-0.**

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**#137-2019**

**A RESOLUTION TO AMEND THE 2019/2020 BUDGET REVENUE AND EXPENSE ACCOUNTS**

## **Motion of Councilperson Viele**

**WHEREAS**, pursuant to General Municipal Law 6-F, the City of Batavia has an established Facility Reserve Fund which has a current balance of approximately \$298,399; and

**WHEREAS**, the City of Batavia is preparing a Request for Proposals to conduct a feasibility study and pre-design work for a new Police Station on City Property located at the Northwest corner of Bank Street and Alva Place; and

**WHEREAS**, the projected cost for the feasibility and pre-design work is projected to not exceed \$50,000; and

**WHEREAS**, reserves funding is required to fund the project.

**NOW, THEREFORE, BE IT RESOLVED**, that the Council of the City of Batavia authorize the City Manager to transfer \$50,000 from the Facility Reserve to accounts shown below; and

**BE IT FURTHER RESOLVED**, by the City Council of the City of Batavia to authorize the City Manager to amend the 2019/2020 budget by increasing the accounts as follows:

Revenue 001.0001.0511.2106 Appropriated Facility Reserves	\$ 50,000.00
Expense 001.1620.437 Professional Fees transfers out	\$ 50,000.00

**Seconded by Councilperson Briggs and on roll call approved 9-0.**

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## **MOTION TO ENTER EXECUTIVE SESSION**

### **Motion of Councilperson Pacino**

**WHEREAS**, Article 7, Section 105(1)(h), of the Public Officer's Law permits the legislative body of a municipality to enter into Executive Session to discuss "...the proposed acquisition, sale, or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof...".

**WHEREAS**, Article 7, Section 105(1)(e), of the Public Officer's Law permits the legislative body of a municipality to enter into Executive Session to discuss "...collective negotiations pursuant to article fourteen of the civil service law..." and;

**WHEREAS**, Article 7, Section 105(1)(f), of the Public Officer's Law permits the legislative body of a municipality to enter into Executive Session to discuss "...the medical, financial, credit or employment history of a particular person or corporation, or matters leading to

the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation...”and;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Batavia, that upon approval of this Motion, the City Council does hereby enter into Executive Session.

**Seconded by Councilperson Viele and on roll call approved 9-0.**

Council entered executive session at 9:15pm and ended at 9:28pm.

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**Meeting adjourned at 9:29 PM.**

**Respectfully submitted,**

**Heidi J Parker  
Clerk-Treasurer**