

# **CITY OF BATAVIA BUSINESS MINUTES FEBRUARY 11, 2019**

The regular business meeting of the City Council was held Monday, February 11, 2019 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, Viele, Canale, Christian, Tabelski, and Bialkowski.

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

The financials from November and December 2018 were approved.

The minutes from the January 2019 meetings were approved.

The Council President assigned the regular agenda items.

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## **Communications**

The Coffee Press submitted a liquor license application. There was no objection from the Police Department. Council approved.

Genesee Rugby Club submitted an application for matches on Saturday March 23<sup>rd</sup> and March 30<sup>th</sup> at Lions Park from 1-3 pm. 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, February 25, 2019 at 7:00 p.m. in the City Hall Council Board Room, 2<sup>nd</sup> Floor, City Centre.

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## **City Attorney's Report**

George Van Nest, City Attorney, noted they continue to work on a variety of matters but there was nothing specific to report. He noted there was one item for executive session.

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## **City Manager's Report**

Martin Moore, City Manager, said the City had received a good response for the DRI funding for projects up and down Main Street. He noted that things were moving along. He also noted that there would be a budget work session tomorrow, February 12<sup>th</sup>.

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## **Committee Reports**

Councilperson Pacino said that the BID would be hosting a craft beer event "Febrewary" on 2/23/19 from 5-8 PM. She noted that general admission and VIP tickets were still available as well as tickets for designated drivers.

Councilperson Tabelski said the RFP for the market feasibility study for an expansion of an additional sheet of ice at the ice arena will be done in the spring.

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## **Public Comments**

Shawn Domes, Attica, said that he was praying for the Council members as they discussed this difficult matter and hoped that God hears.

Nikki Calhoun, LeRoy, gave an overview of the many services available to men and women at Planned Parenthood including counseling services on an income-based sliding scale. She said that she respected everyone's opinion and held a belief in a higher being. She implored Council to mind to the business of the City and not women's bodies.

Erica O'Donnell, Batavia, thanked Council for discussing legislation like the Reproductive Health Act as communities had lost the ability to have conversations on complicated issues. She said she had contacted Council in August of 2017 about taking a stand against the confederate flag being flown in the City after a neo Nazi rally had turned deadly in Charlottesville, VA, but was told that Council refrained from issues other than City business. She said the City decided not to take a stand then and she hoped the City would take the same approach now.

Chris Connelly, Batavia, said he wanted to start by addressing these fallacies and these emotional arguments that deal with things such as rape and incest. He said that while these things are horrible, rape is wrong for the same reason abortion is, violence against another human being. He said that there's an old saying that a picture is worth a thousand words. He then said he would continue to call forth to abolish abortion.

Dan Devlin, Buffalo, said that he sees abortion as a constitutional issue and quoted the preamble to the Constitution of the United States to support his view. He then noted that there are two groups, not one that this nation was established for. He then stated that the succeeding generations, the unborn descendants in the womb are clearly our posterity. He then called upon Council to send a letter to the Governor to defend the protection of our posterity.

Brittany Connelly, Batavia, said that being a Christian and obeying God's law she had seen many women on both sides of the issue. She said that life begins at conception. She then noted that the fact she was here debating this issue is a signal that we need repentance before a holy and just God.

Alex Feig, Medina, asked Council to follow its own vision statement, reading several points from the City's website. He called for Council to not only send a letter in opposition to the Reproductive Health Act but also pass an "emergency ordinance" to prohibit abortions in the City.

Jon Speed, Syracuse, asked Council which is the best way to kill a baby? He said that for anyone with a conscience the answer is obvious. He said there is no good way to kill a baby. "Thou shall not kill." He then urged Council to make the City a sanctuary city for the unborn.

Beth Cerminara, Lancaster, said she would like Council to follow through with writing a letter to the Governor and to consider making the City a sanctuary city for the unborn.

Amber Hainey, Mt. Morris, said that she stands with women everyday while they are making these types of decisions. She said that a woman's right to choose has been a law since 1973 (Roe v Wade) and we're done having this conversation. She implored Council to support the Governor's RHA legislation.

Frank Klimjack, Batavia, said that the current Reproductive Health Act is moral depravity at its greatest. He said he can't see any doctor doing such a late term procedure. He then said if the child is under duress or the mother has a medical issue there are medical procedures available to save both mother and unborn child. He said that Council needed to do what was right. He urged everyone to write letters to all local and state officials as well as the Governor stating their opposition to the RHA legislation.

Ellen Greathouse, Batavia, said she was happy to hear the Lord's Prayer at the beginning of the meeting. She said that she sees girls choosing to go through the procedure with outside influences; the father, parents and finances. She said she feels for the girls making these difficult decisions who don't think that they have a choice. She said that we should be looking at how women can best be served.

Kathy Stefani, Batavia, said that it is a federal crime to destroy a bald eagle egg but abortion had become legal up until the time of birth. She said a little known fact that the word fetus in Latin is "little one". She said that and we are here tonight for the littles ones. She also

noted that it was legal to give a lethal injection to an unborn child but definitely not to a hardened convicted criminal. She asked that Council prepare a letter stating right from wrong and making the City a sanctuary city.

Chelsey Smith, Barre, thanked Council for their service to the community. She said she wondered who has to right to say who a baby is. She said she hoped Council took a stand because abortion is 100% wrong. She noted that the community would support Council in the potential backlash. She said she would like the City to become a sanctuary city.

Christine Barone, S. Wales, said that children can be murdered up until birth. She asked that Council think about the unborn children. She urged Council to write the letter opposing the recent RHA legislation.

Brian Thompson, Oakfield, said that Council should listen to the constituents they are sworn to protect in the City as well as the unborn. He said that Council can have a say, all they have to do is stand up and send the letter opposing the legislation. He noted that life is short but eternity is forever.

Rachel Curtin, Batavia, thanked Council for their courage to discuss this difficult issue. She also said she was glad to hear about 8 versions of the Lord's Prayer. She said that her reproductive rights were her own, and that Council should focus on City matters.

Jim Candytree, Albion, said that he appreciated the work that Council does, and that they had the opportunity to do something great.

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### **Council Responses to Public Comments**

None

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### **Unfinished Business**

Councilperson Christian thanked all of the speakers. She also said she disagreed with those who said this wasn't one of Council's duties, and that she was in favor of sending a letter to the Governor Cuomo. She went on to say that abortion, especially in the third trimester, is barbaric and murder.

Councilperson Bialkowski thanked all of the speakers. He also said that he doubted a letter from Council would have any impact on Albany. He also said that we have a governor now writing laws and they don't care about this part of the state. He said some of the laws promote gambling, legalization of marijuana and pay raises for prisoners.

Council President Jankowski also thanked all of the speakers. He noted that a letter from one legislative body like Council might not have the same impact as 15,000 letters sent to Governor Cuomo and state legislators letting them know exactly how you feel about the recently passed

Reproduce Health Act. He also said that he cannot see a clear path to move forward and the Council should stick to local issues involving the City.

Councilperson Christian asked the City Attorney if it was illegal for the City to send a letter opposing the recent RHA legislation.

City Attorney, George VanNest, said that Council had sent letters of opposition in the past.

Councilperson Canale said he was glad to hear from so many speakers both local and outside the City to express both sides of the issue. He said that he had been flooded with emails from citizens in his ward. He said he was wrestling with whether to send the letter or not. He also suggested that 15,000 letters sent to local officials and officials at the state level would have more of an impact potentially than one letter from the City. He suggested that Council table the issue while the members do some soul searching.

Councilperson Bialkowski suggested that Council go through the regular process of having the item go to the next conference session.

Councilperson Briggs tried to call the item for a vote but didn't have a second.

Council President Jankowski said that Council needed to draft the letter to come before the Council at the next conference session. He said that personally this one caught him off guard and had the potential to divide the City.

City Attorney, George VanNest, said in cases such this, a consensus of the board would determine what action to take.

Councilperson Christian said that she would draft the letter for the next conference meeting.

Council President Jankowski called for a 5 minute recess to give all of the speakers a chance to leave before the regular meeting continued.

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**#7-2019**  
**A RESOLUTION INTRODUCING 2019-2020 BUDGET ORDINANCE AND**  
**SCHEDULING A PUBLIC HEARING**

**Motion of Councilperson Christian**

**WHEREAS**, the City Manager prepared and submitted to the City Council a Proposed Budget for the 2019-2020 fiscal year on January 14, 2019 pursuant to Section 16.3 of the City Charter, copies of which were received by all members of the City Council and a copy placed on file in the City Clerk's Office; and

**WHEREAS**, a Public Hearing is required for compliance with the City Charter and the public hearing will be held on February 25, 2019 at 7:00 PM in the Council Board Room of City Hall.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Batavia that the 2019-2020 Budget Ordinance is hereby introduced pursuant to Section 3.13 of the City Charter.

**BE IT FURTHER RESOLVED**, that the City Council hold a public hearing on said Budget Ordinance in the Council Board Room, Second Floor, One Batavia City Centre, Batavia, New York, at 7:00 PM on Monday, February 25, 2019; and

**BE IT FURTHER RESOLVED**, that the City Clerk publish or cause to be published a public notice in the official newspaper of the City of said public hearing at least five (5) days prior thereto.

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

**ORDINANCE #001-2019**

**AN ORDINANCE ADOPTING THE 2019-2020 BUDGET AND DETERMINING THE AMOUNT OF TAX TO BE LEVIED ON ALL REAL PROPERTY FOR THE 2019-2020 FISCAL YEAR**

**BE IT ENACTED**, by the Council of the City of Batavia, New York:

**SECTION 1.** The proposed Budget for 2019-2020, submitted by the City Manager pursuant to Sections 16.3, 16.4, and 16.5 of the City Charter on January 14, 2019, setting forth the estimates of revenues and expenditures for the fiscal year 2019-2020, including all wage adjustments and salary schedules for all employees covered under collective bargaining agreements, and non-union, part-time and seasonal employees, of the various funds of the City of Batavia, namely, General Fund, Water Fund, Sewer Fund, and Workers' Compensation Fund is hereby approved and that the several amounts allowed as estimated expenditures be and are hereby appropriated to the use of the several departments of the City of Batavia for the purpose set forth in each estimate in the proposed budgets for the fiscal year 2019-2020.

**SECTION 2.** The City Council does hereby finally ascertain, fix, and determine that the entire amount necessary, proper, and legal be raised by tax to defray the expenditures of the City of Batavia for the fiscal year of 2019-2020 is \$5,251,607.

**SECTION 3.** The sum of \$5,251,607 the entire amounts heretofore ascertained, fixed, and determined as necessary, proper, and legal be raised by tax to defray the expenditures of the City of Batavia for the fiscal year 2019-2020, be and the same is hereby levied on all the real property subject to taxation by the City of Batavia according to valuation upon the assessment roll for the fiscal year 2019-2020.

**SECTION 4.** The amounts to be raised by taxation as hereby stated for City purposes is hereby a warrant upon the Clerk-Treasurer to spread and extend such levies upon the current assessment tax roll and to collect the same.

**SECTION 5.** The budget summaries, as filed in the Clerk-Treasurer's Office of the various funds of the City of Batavia, are made a part hereof and are hereby declared to be part of the Ordinance.

**SECTION 6.** This Ordinance shall become effective April 1, 2019.

## **Budget Summaries**

### **General Fund**

General Fund - Capital Reserves	\$ 114,327.00
City Council	\$ 49,910.00
City Manager	\$ 177,320.00
Finance	\$ 132,775.00
Administrative Services	\$ 343,050.00
Clerk/Treasurer	\$ 144,170.00
City Assessment	\$ 144,300.00
Legal Services	\$ 220,419.00
Personnel	\$ 151,030.00
Engineering	\$ 27,000.00
Elections	\$ 14,130.00
Public Works Administration	\$ 102,450.00
City Facilities	\$ 472,980.00
Information Systems	\$ 72,500.00
General Fund - Contingency	\$ 264,500.00
Police	\$ 3,835,160.00
Fire	\$ 3,696,425.00
Control of Dogs	\$ 1,450.00
Inspection	\$ 326,590.00
Vital Statistics	\$ 19,155.00
Maintenance Administration	\$ 191,880.00
Street Maintenance	\$ 525,600.00
Public Works Garage	\$ 454,610.00
Snow Removal	\$ 569,890.00
Street Lights & Traffic Signals	\$ 278,990.00
Sidewalk Repairs	\$ 135,000.00
Parking Lots	\$ 6,000.00
Community Development	\$ 20,157.00

Economic Development	\$ 110,000.00
Council on Arts	\$ 6,250.00
Parks	\$ 622,070.00
Summer Recreation	\$ 80,505.00
Youth Services	\$ 176,631.00
Historic Preservation	\$ 1,200.00
Community Celebrations	\$ 15,470.00
Planning & Zoning Boards	\$ 2,600.00
Storm Sewer	\$ 178,560.00
Refuse & Recycling	\$ 86,810.00
Street Cleaning	\$ 118,610.00
General Fund - Debt Service/Bonds	\$ 481,360.00
General Fund – BAN	\$ 102,215.00
Install Pur Debt - Municipal Lease	\$ 32,215.00
Gen. Fund – Debt Srvc-Energy Lease	\$ 82,543.00
Gen. Fund – Transfer for Cap Proj	\$ 209,500.00
General Fund - Transfer/Other Funds	\$ 2,145,890.00
<b>TOTAL GENERAL FUND</b>	<b>\$ 16,944,197.00</b>

**Water, Wastewater & Workers Comp Funds**

**PROPOSED  
2019/20**

Water Administration	\$ 2,586,077.00
Pump Station & Filtration	\$ 1,226,030.00
Water Distribution	\$ 373,030.00
Water Fund – Medical Insurance	\$ .00
Water Fund Contingency	\$ 30,000.00
Water Fund - Debt Service/Bonds	\$ 90,817.00
Install Pur Debt – Municipal Lease	\$ 2,016.00
Water Fund– Debt Srvc-Energy Lease	\$ 19,697.00
Water Fund – Transfers for Cap Proj	\$ .00
Water Fund - Transfer to Other Funds	\$ 503,510.00
Water Fund - Reserve	\$ 13,863.00
Water Fund – Debt Service - BAN	\$ .00
<b>TOTAL WATER</b>	<b>\$ 4,845,040.00</b>

Wastewater Administration	\$ 318,797.00
Sanitary Sewers	\$ 594,390.00
Wastewater Treatment	\$ 821,430.00
WW Fund Contingency	\$ 15,000.00



**Motion of Councilperson McGinnis**

**BE IT RESOLVED**, that Local Law No. 1 of the Year 2019 entitled “**LOCAL LAW NO. 1 OF THE YEAR 2019 CITY OF BATAVIA TO AMEND §184-41 (A), (B), (C), AND (O) OF THE CODE OF THE CITY OF BATAVIA TO ESTABLISH NEW WATER RATES, METER FEES AND A CAPITAL IMPROVEMENT FEE**” be introduced before the City Council of Batavia, New York; and

**BE IT FURTHER RESOLVED**, that copies of the aforesaid proposed Local Law be laid upon the desk of each member of the City Council by the City Clerk; and

**BE IT FURTHER RESOLVED**, that the City Council hold a public hearing on said proposed Local Law in the Council Board Room, Second Floor, One Batavia City Centre, Batavia, New York, at 7:00 p.m. on Monday, February 25, 2019; and

**BE IT FURTHER RESOLVED**, that the City Clerk publish or caused to be published a public notice in the official newspaper of the City of said public hearing at least three (3) days prior thereto.

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

**LOCAL LAW NO. 1 OF THE YEAR 2019  
CITY OF BATAVIA**

**A LOCAL LAW TO AMEND §184-41(A), (B), (C), AND (O) OF THE CODE OF THE CITY OF BATAVIA TO ESTABLISH NEW WATER RATES, METER FEES AND A CAPITAL IMPROVEMENT FEE**

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

**Section 1. § 184-41. Water rates.**

A. Water Rates

**City – Water – Quarterly Schedule**

~~\$5.30~~ [\$5.49] per 1,000 gallons

**Town Served Directly by the City – Building and Hydrants**

~~\$6.80~~ [\$7.04] per 1,000 gallons

B. Bulk rate at water plant fill station: ~~\$7.10~~ [\$7.35] per 1,000 gallons; cards: \$12.50 each.

**Section 3. Effective Date**

The foregoing amendment shall become effective with the water consumed ~~April 1, 2018 as billed on and after June 1, 2018~~ [April 1, 2019 as billed on and after June 1, 2019].

C. Quarterly meter service and availability charge for meters:

<b>Type</b>	<b>Size in Inches</b>	<b>Quarterly Fee</b>
Disc	5/8	<del>\$10.33</del> [\$10.69]
Disc	3/4	<del>\$13.07</del> [\$13.53]
Disc	1	<del>\$13.77</del> [\$14.25]
Disc	1 ½	<del>\$23.40</del> [\$24.22]
Disc	2	<del>\$32.49</del> [\$33.62]
Compound	2	<del>\$27.52</del> [\$28.48]
Compound	3	<del>\$104.67</del> [\$108.33]
Compound	4	<del>\$166.60</del> [\$172.43]
Compound	6	<del>\$251.66</del> [\$260.47]
Turbo	3	<del>\$61.93</del> [\$64.10]
Turbo	4	<del>\$104.67</del> [\$108.33]
Fireline	4	<del>\$104.67</del> [\$108.33]
Fireline	6	<del>\$166.60</del> [\$172.43]
Fireline	8	<del>\$232.24</del> [\$240.36]
Fireline	10	<del>\$303.27</del> [\$313.88]

All of the above meter service charges include the required remote reading encoder systems.

O. Quarterly Capital Improvement fee for meters:

<b>Type</b>	<b>Size in Inches</b>	<b>Quarterly Fee</b>
Disc	5/8	<del>\$5.99</del> [\$6.59]
Disc	¾	<del>\$7.59</del> [\$8.35]
Disc	1	<del>\$7.99</del> [\$8.78]
Disc	1 ½	<del>\$13.58</del> [\$14.93]
Disc	2	<del>\$18.85</del> [\$20.73]
Compound	2	<del>\$15.97</del> [\$17.57]
Compound	3	<del>\$60.73</del> [\$66.81]
Compound	4	<del>\$96.67</del> [\$106.34]
Compound	6	<del>\$146.04</del> [\$160.65]
Turbo	3	<del>\$35.94</del> [\$39.53]
Turbo	4	<del>\$60.73</del> [\$66.81]
Fireline	4	<del>\$60.73</del> [\$66.81]
Fireline	6	<del>\$96.67</del> [\$106.34]
Fireline	8	<del>\$134.76</del> [\$148.24]
Fireline	10	<del>\$175.99</del> [\$193.59]

Deletions designated by ~~strikeout~~  
 Additions designated as [brackets]

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**#9-2019**

**A RESOLUTION TO SCHEDULE A PUBLIC HEARING TO ADOPT A LOCAL LAW AMENDING §190-3, ZONING, ENTITLED “DEFINITIONS”, AND §190-43, ENTITLED “SIGNS” AND EXHIBIT A OF THE BATAVIA MUNICIPAL CODE**

**Motion of Councilperson Christian**

**BE IT RESOLVED**, that Local Law No. 2 of the Year 2019 entitled “**LOCAL LAW NO. 2 OF THE YEAR 2019 CITY OF BATAVIA TO AMEND §190-3, ZONING, DEFINITIONS, AND §190-43, SIGNS AND EXHIBIT A OF THE BATAVIA MUNICIPAL CODE TO AMEND THE CITY SIGN CODE AND RELATED PROVISIONS**” be introduced before the City Council of Batavia, New York; and

**BE IT FURTHER RESOLVED**, that copies of the aforesaid proposed Local Law be laid upon the desk of each member of the City Council by the City Clerk; and

**BE IT FURTHER RESOLVED**, that the City Council hold a public hearing on said proposed Local Law in the Council Board Room, Second Floor, One Batavia City Centre, Batavia, New York, at 7:00 P.M. on Monday, February 25, 2019; and

**BE IT FURTHER RESOLVED**, that the City Clerk publish or caused to be published a public notice in the official newspaper of the City of said public hearing at least five (5) days prior thereto.

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

**LOCAL LAW NO. 2 OF THE YEAR 2019  
CITY OF BATAVIA**

**TO AMEND §190-3, ZONING, DEFINITIONS, AND §190-43, SIGNS AND EXHIBIT A OF THE BATAVIA MUNICIPAL CODE TO AMEND THE CITY SIGN CODE AND RELATED PROVISIONS**

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

**Section 1. §190-3. Definitions**

SIGN<sup>2</sup>

(1) AWNING SIGN

A sign where graphics or symbols are painted, sewn, or otherwise adhered to the awning material as an integrated part of the awning itself.

(2) BACKLIT ILLUMINATION

Signs that are backlit illuminated involve a low level of external light shining out from behind solid object, most often letters, creating a soft glow around the outside of the objects.

(3) BRACKET SIGN

A freestanding sign attached to the ground by one or more support structures that is not higher than 5 feet and hangs from a bracket or support.

(4) CANOPY SIGN

A sign placed on a canopy so that the display surface is parallel to the plane of the wall.

(5) DIRECTIONAL SIGN

A permanent sign which is designed for the purpose of directing traffic or pedestrian traffic to the location of an activity or business.

(6) DRIVE-THROUGH MENU BOARD SIGN

A sign located outside of a building, on a route to a point of service, with or without built-in communication devices, which displays a list of items offered. A drive-through menu board sign may be designed as a pole sign, monument sign, wall sign, projecting sign or iconic sign.

(7) ELECTRICAL RACEWAY

A raceway (sometimes referred to as a raceway system) is an enclosed conduit that forms a physical pathway for electrical wiring. Raceways protect wires and cables from heat, humidity, corrosion, water intrusion and general physical threats.

(8) ELECTRONIC MESSAGE BOARD

An illumination type that produces a static or changeable electronic message using light-emitting diodes (LED), liquid crystal display (LCD) or other digital display method; that is designed to provide an electronic message or display that may generate and periodically changed using an internal, external or remotely located electronic control system; which contains an illuminated, programmable message or graphic, whether fixed or moving.

(9) EXTERNAL ILLUMINATION

Signs that are externally illuminated have light shining on to the outer surface of the sign. External illumination may be downlit (lit from above) and uplit (lit from below).

(10) FREESTANDING SIGN

A self-supporting sign not attached to any building, wall or fence, but in a fixed location, includes pole signs, pylon signs, and masonry wall-type signs, but does not include drive-through menu board signs and portable trailer-type signs.

- (11) **ICONIC SIGN**  
A sculptural, typically three-dimensional sign whose form suggests its meaning, and which can either be building-mounted or freestanding.
- (12) **ILLUMINATED SIGN**  
Any sign illuminated by electricity, gas or other artificial light either for the interior, back lit or exterior of the sign, and which includes reflective and phosphorescent light.
- (13) **INTERNAL ILLUMINATION**  
Signs that are internally illuminated have light shining through the surface of the sign. Typically, these either involve a rectangular-shaped box sign or individual letters (channel letters) that are lit from inside. Neon signs are not considered internally illuminated.
- (14) **MARQUEE SIGNS**  
A sign attached to the top or the face of a permanent roof-like structure.
- (15) **MONUMENT SIGN**  
A freestanding sign attached to the ground along its entire length to a continuous pedestal. A monument sign is horizontally oriented or is square.
- (16) **OFF-PREMISES SIGN**  
A sign unrelated to a business or a profession conducted, or to a commodity or service sold or offered, upon the premises where such a sign is located.
- (17) **POLE SIGN**  
A freestanding sign constructed on a structure of one or more poles.
- (18) **PORTABLE SIGN**  
A sign designed to be portable and not structurally attached to the ground, building, structure or another sign.
- (19) **PROJECTING SIGN**  
A sign attached to the building façade at a ninety-degree angle, extending more than 15 inches. A projecting sign may be two or three dimensional.
- (20) **SHINGLE SIGN**  
A small projecting sign that hangs from a bracket or support.
- (21) **SIDEWALK SIGN**  
A moveable sign not secured or attached to the ground or surface upon which it is located.

- (22) SIGN  
A structure or device designed or intended to convey information to the public in written or pictorial form.
- (23) SIGN STRUCTURE  
Framework for the sign.
- (24) SIGN SURFACE AREA  
The entire area within the single, continuous perimeter enclosing the limits of writing representation, emblem or any figure or similar character. Supports, uprights or structures on which any sign is supported shall not be included in the sign face area unless it is an integral part of the sign.
- (25) TEMPORARY SIGN  
A sign having a duration of no more than 60 days.
- (26) WALL SIGN  
A sign placed or painted against a building and attached to the exterior front, rear or side so that the display surface is parallel to the plane of the wall.
- (27) WINDOW SIGN  
A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, or located inside within four feet of the window, but not including graphics in connection with customary window display of products.

**Section 2. §190-43, SIGNS AND EXHIBIT A**

Deleted existing §190-43, Signs and EXHIBIT A in entirety and replace it with the following §190-43, Signs:

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**#10-2019**  
**A RESOLUTION ESTABLISHING THE CITY OF BATAVIA AS LEAD AGENCY UNDER THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (“SEQR”)**

**Motion of Councilperson Viele**

**WHEREAS**, the City of Batavia has proposed to amend the Batavia Municipal Code §190-43, Signs; and

**WHEREAS**, this amendment of the City’s zoning ordinance Section 190-43, Signs is 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

**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 the City's Batavia Municipal Code; and

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

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**#11-2019**

**A RESOLUTION TO APPOINT MEMBERS TO VARIOUS CITY COMMITTEES/  
BOARDS**

**Motion of Councilperson Briggs**

**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:

**Board of Assessment Review**

Dwight Thornton

September 30, 2023

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

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**#12-2019**

**A RESOLUTION TO ENTER INTO A 7<sup>th</sup> SUPPLEMENTAL AGREEMENT FOR  
ARTERIAL MAINTENANCE AGREEMENT BETWEEN NEW YORK STATE  
DEPARTMENT OF TRANSPORTATION AND CITY OF BATAVIA**

**Motion of Councilperson Tabelski**

**WHEREAS**, 38 cities, including the City of Batavia, have arterial maintenance agreements with the State of New York in which the Cities maintain certain designated State-owned arterial highways and the State compensates those Cities for this service; and

**WHEREAS**, the City of Batavia maintains 204,588 square yards, or approximately 7 miles of State highway throughout the City and those services include, but are not limited to,

street cleaning, snow and ice control, pothole patching, traffic signal maintenance, signage and pavement marking; and

**WHEREAS**, since its inception in 1951, the arterial reimbursement agreement has been a very effective and efficient shared service model for maintenance of State highways, as it has relieved the State of maintenance responsibilities and provided municipalities a certain amount of autonomy of how roads are maintained; and

**WHEREAS**, NYSDOT has been instructed by the Office of the State Comptroller to have the City of Batavia enter a Supplemental to the Arterial Agreement for portions of NYS Route 5, 33, 63 and 98 but not to include the portions of Route 33 known as Clinton Street or Route 98 known as South Main Street/Walnut Street as these are City owned Streets; and

**WHEREAS**, by entering into a Supplemental to the Arterial Agreement the City of Batavia will receive an additional \$6,501.14 a year to increase the total to \$183,017.40 a year for services until the end of the contract in 2049; and

**WHEREAS**, the City of Batavia will also receive a payment of \$218,539.88 from the State of New York for a payment adjustment of the services rendered from June 1994 to November 2018; and

**WHEREAS**, the City of Batavia, like most Cities in the State, have made a vigilant effort to maximize municipal resources and lessen the tax burden on taxpayer by actively engaging in, and seeking shared service models when practically possible, shared service agreements can only be successful when all parties involved receive meaningful benefits in return.

**NOW, THEREFORE BE IT RESOLVED**, that the Council President be and is hereby authorized to execute the necessary agreement on behalf of City Council with New York State Department of Transportation in connection with the Supplemental to the Arterial Agreement to be paid for past and current services of maintenance of the State Highways within the City; and

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

\* \* \*

**#13-2019**

**A RESOLUTION REFERRING THE REVIEW OF THE ZONING OF PUBLIC STORAGE RENTAL UNITS IN THE BATAVIA MUNICIPAL CODE TO THE PLANNING AND DEVELOPMENT COMMITTEE**

**Motion of Councilperson McGinnis**

**WHEREAS**, the City Council is desirous of reviewing the Batavia Municipal Code, Section §190, in response to a petition from Peter Yasses, a member of 54 Cedar Street LLC, in relation to the lack of permitted zoning use of Public storage rental units; and

**WHEREAS**, under the City Charter § 13-3 the City Planning and Development Committee shall have such powers and duties to serve in an advisory capacity and provide such advice as to assist the City Council in developing a strategy that interprets, plans and leads in the implementation of land use matters relating to public and private development within the City of Batavia; and

**WHEREAS**, General City Law Section 27 provides City Council with the authority to refer matters to the Planning and Development Committee requesting reviews and recommendations regarding planning and development within the City of Batavia; and

**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of Batavia hereby requests that the City Planning and Development Committee is to review permitted zoning of public storage units in the Batavia Municipal Code, to include application and implementation matters, as well as potential revisions, and make a recommendation to the City Council for consideration.

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

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**#14-2019**

**A RESOLUTION APPOINTING A FAIR HOUSING OFFICER AND AN ADA  
(AMERICANS WITH DISABILITIES ACT) COORDINATOR**

**Motion of Councilperson Bialkowski**

**WHEREAS**, the City of Batavia, State of New York, has previously been granted Community Development Block Grant (CDBG) Funds from the State of New York; and

**WHEREAS**, in accordance with Section 519 of Public Law 101-144, the HUD Appropriations Act requires certain statement of assurances and certifications;

**WHEREAS**, that pursuant to the City of Batavia being granted CDBG funds by the State; the City of Batavia, by administrative act, has previously adopted a policy statement and grievance procedures related to the Americans with Disabilities Act;

**WHEREAS**, that pursuant to the City of Batavia being granted CDBG funds by the State, the City of Batavia, by administrative act, has previously adopted Fair Housing and Anti-Displacement Plans.

**NOW THEREFORE BE IT RESOLVED**, that the City Council of the City of Batavia appoints Martin D. Moore to serve as Fair Housing Officer and the ADA Coordinator for the City of Batavia.

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

\* \* \*

**#15-2019**  
**A RESOLUTION TO AUTHORIZE CITY MANAGER THE FLEXIBILITY**  
**WHEN DETERMINING WAGE STEP INCREMENTS**

**Motion of Councilperson Pacino**

**WHEREAS**, the current non-union pay scale outlines a pre-determined timeline for step increments; and

**WHEREAS**, it is recommended that the City Manager have the flexibility to make step increments at his discretion;

**NOW, THEREFORE, BE IT RESOLVED**, by City Council of the City of Batavia that the Manager is hereby authorized to have the flexibility to determine the step increments for non-union management employees.

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

\* \* \*

**#16-2019**  
**A RESOLUTION AUTHORIZING THE CITY COUNCIL PRESIDENT TO EXECUTE**  
**AN INTER-MUNICIPAL REAL PROPERTY TAX PROJECT MANAGEMENT**  
**AGREEMENT WITH THE COUNTY OF GENESEE**

**Motion of Councilperson Viele**

**WHEREAS**, the City of Batavia and the County of Genesee desire to renew an agreement to provide for inter-municipal cooperation in providing real property tax service to the citizens of Batavia; and

**WHEREAS**, the City currently has a tax assessor, as appointed by the City Manager, who performs actual tax assessments upon real property within the City; and

**WHEREAS**, the City will continue to perform tax assessment functions on property within the City from January 1, 2019 through December 31, 2021; and

**WHEREAS**, the County through its Office of Real Property Tax Services has the staff and ability to provide real property tax assessment project management to assist the City in its tax assessment functions; and

**WHEREAS**, the General Municipal Law; the County Law and the General City Law authorize agreements between municipal corporations for performance by one of the municipalities for the benefit of the other municipality with regard to the function, powers and

duties as set forth and intended herein; and

**WHEREAS**, General Municipal Law Section 119-m provides for the contracting of these types of services between municipal corporations; and

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Batavia that the Council President is hereby authorized and directed to execute an Inter-municipal Real Property Tax Project Management Agreement with the County of Genesee.

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

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**#17-2019**

**A RESOLUTION TO REQUEST SPECIAL LEGISLATION FOR A FORTY  
YEAR SALES TAX ALLOCATION AGREEMENT BETWEEN  
THE COUNTY OF GENESEE AND THE CITY OF BATAVIA**

**Motion of Councilperson McGinnis**

**WHEREAS**, The County of Genesee and the City of Batavia have negotiated an “Amended and Restated Sales Tax Allocation Agreement between the County of Genesee and the City of Batavia” (hereinafter “Amended and Restated Agreement”), which is acceptable to both parties, and

**WHEREAS**, Genesee County and the City of Batavia are desirous of making a long term commitment to Capital Project funding and controlling their respective property tax rate under the New York State Property Tax Cap Mandate, and

**WHEREAS**, Genesee County has a present 4% local option sale tax which it shares 50% of all net proceeds with the City, Towns and Villages of Genesee County and retains 50% for its own general fund purposes, and

**WHEREAS**, the City of Batavia is interested in long term sales tax stability, as well as maintaining a high quality, sufficient supply and affordable water supply through shared agreements with Genesee County, and that support infrastructure and capacity development for the benefit of the City and County residents, and

**WHEREAS**, Genesee County has an obligation under New York State statute to provide a County jail and the unique obligation dating back to the 1930’s to maintain all non -New York State/federal bridges in the County over 5’, and

**WHEREAS**, Genesee County has identified probable capital expenses for a new County jail at \$54 million and our 10 year roads and bridges Capital Improvement Project at \$50 million which are substantially and solely County fiscal obligations via long-term debt, and

**WHEREAS**, Genesee County, like the 56 other New York State counties, is now under a new mandate with Raise the Age expenses which New York State has indicated will reimburse the County for its related services/expenses 100% if and only if the County stays under the annual property tax cap levy limits, and

**WHEREAS**, the funding for said Capital Improvement Projects are expected to be long-term debt which based on the probable maximum life of these assets is 30-40 years and the annual debt service is a legitimate expense from the County general fund of which net sales tax proceeds are the 2<sup>nd</sup> largest fiscal resource, and

**WHEREAS**, Genesee County has drafted a plan for using a portion of the growth in our annual 4% local option sales tax with a ceiling on the distribution of said net proceeds to the City, Towns and Villages in order to fund our major Capital Improvement Projects and comply with the New York State Property Tax Levy Cap mandate, and

**WHEREAS**, this Amended and Restated Agreement is authorized by Section 1262(c) of the New York State Tax Law subject to approval of the Office of the Comptroller, and

**WHEREAS**, a draft of this Amended and Restated Agreement was submitted and reviewed by the Legal Department of the Office of the Comptroller, and

**WHEREAS**, the parties have been advised that in the opinion of the reviewing Attorney that subject to its review of other departments within the Comptroller's Office, there were no legal impediments to approval, other than the length of the proposed Amended and Restated Agreement, and

**WHEREAS**, the Comptroller's Office has had a long standing policy to deny approval of any Sales Tax Allocation Agreements for a period in excess of ten years, and

**WHEREAS**, the forty year length of the Amended and Restated Agreement is necessary for the reason stated hereinafter, and

**WHEREAS**, in 2002 the New York State Legislature enacted special legislation 1262(i) to allow Warren County to enter into a Sales Tax Allocation Agreement with the City of Glens Falls for a period not to exceed forty years, which is the same special legislation sought by the County of Genesee and the City of Batavia. Now, therefore, Be it

**RESOLVED**, that the City of Batavia does hereby request that State Senator Michael Ranzenhofer, and Assemblyman Stephen Hawley sponsor bills in their respective legislative bodies that would allow the County of Genesee and the City of Batavia to enter into an Amended and Restated Sales Tax Allocation Agreement for a period not to exceed forty years, and Be it further

**RESOLVED**, that the City Clerk is hereby authorized and directed to send a certified copy of this resolution to the District Offices of Senator Ranzenhofer and Assemblyman Hawley.

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

**#18-2019**

**A RESOLUTION AUTHORIZING GENERAL OBLIGATION BONDS OF THE CITY OF BATAVIA, GENESEE COUNTY, NEW YORK, TO FINANCE THE INSTALLATION AND CONSTRUCTION OF CERTAIN SIDEWALK IMPROVEMENTS AND TRAFFIC SIGNAL IMPROVEMENTS AS WELL AS AUTHORIZING THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS**

**Motion of Councilperson Pacino**

**WHEREAS**, the **CITY OF BATAVIA** (the “City”), in the County of Genesee, by its City Council has determined it necessary for the City, to undertake the installation and construction of new sidewalk improvements (the “Sidewalk Improvements”) on both sides of State Street from Washington Avenue to Richmond Avenue, on the East side of State Street from Richard Avenue to the City Line; on both sides of Washington Avenue from State Street to Bank Street; on the East side of Bank Street from Washington Avenue to North Street, and on the West side of Bank Street from North Street to Denio Street and on the South side of Richard Avenue from State Street to Ellicott Street; and

**WHEREAS**, the City, by its City Council has determined it necessary for the City, to undertake the installation of certain traffic signal improvements (the “Traffic Signal Improvements”) at the intersection of Richard Avenue and State Street (the Traffic Signal Improvements and the Sidewalk Improvements are hereinafter jointly referred to as the “Improvements”); and

**WHEREAS**, the estimated cost of the Improvements is \$1,158,000.

**BE IT RESOLVED**, by the affirmative vote of not less than two-thirds of the total voting strength of the City Council of the City of Batavia, Genesee County, New York, as follows:

**Section 1.** The design, construction and implementation of the Improvements is hereby authorized at the estimated total cost of \$1,158,000.

**Section 2.** The financing of the Improvements, and the costs of issuance of such financing, (the “specific object or purpose”), is hereby authorized at a maximum estimate not to exceed cost of \$1,258,000.

**Section 3.** The specific objects or purposes are objects or purposes described in Section 11 of the Local Finance Law.

**Section 4.** The City Council, acting as Lead Agency under the regulations of the State of New York (“SEQRA”), hereby determines that the installation and construction of the Improvements will not give rise to any adverse environmental impacts, and hereby adopts a Negative Declaration pursuant to SEQRA.

**Section 5.** The plan for the financing of such maximum estimated cost is by the issuance of general obligation serial bonds of the City in an aggregate principal amount not exceeding \$1,258,000. Subject to the limitations hereinafter set forth, the issuance of such bonds is hereby authorized to be issued therefor pursuant to the Local Finance Law.

**Section 6.** The aforementioned principal amount of serial bonds authorized hereby shall be reduced dollar for dollar by any amount otherwise available and allocated for the costs of the Improvements by funds made available to the City for said purpose from authorized City Sidewalk Reserve funds as well as any State and/or Federal funds/grants applicable to the Improvements..

**Section 7.** It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

**Section 8.** It is hereby determined that the period of probable usefulness of the Sidewalk Improvements is 10 years, pursuant to subparagraph 1 of Section 11.00.a. of the Local Finance Law. It is hereby further determined that the maximum maturity of the bonds herein authorized for the Sidewalk Improvements will not be in excess of 10 years.

**Section 9.** It is hereby determined that the period of probable usefulness of the Traffic Signal Improvements is 20 years, pursuant to subparagraph 72(a) of Section 11.00.a. of the Local Finance Law. It is hereby further determined that the maximum maturity of the bonds herein authorized for the Traffic Signal Improvements will not be in excess of 20 years.

**Section 10.** The faith and credit of the City of Batavia, Genesee County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in every year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year.

**Section 11.** Subject to the provisions of this resolution and of the New York State Local Finance Law (“LFL”) and pursuant to the provisions of LFL Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of LFL Sections 21.00, 50.00, 56.00 to 60.00, 62.00 and 63.00, the powers and duties of the City Council pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the City Manager, the chief fiscal officer of the City. To the extent required by law, this Resolution shall also constitute a “Bond Anticipation Note Resolution” pursuant to the Local Finance Law.

**Section 12.** All other matters except as provided herein relating to the bonds or notes herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue bonds with substantially level or declining annual debt service, shall be determined by the City Manager, as the chief fiscal officer of the City. Such bonds shall contain substantially the recital of validity clause provided for in

LFL Section 52.00, and shall otherwise be in such form and contain such recitals, in addition to those required by LFL Section 51.00, as the City Manager shall determine, consistent with all applicable LFL provisions.

**Section 13.** The City Manager is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

**Section 14.** The City Manager is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c12-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

**Section 15.** The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution or an abstract thereof are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- 3) Such obligations are authorized in violation of the provisions of the Constitution of the State of New York.

**Section 16.** The temporary use of available funds of the City, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The City then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the date hereof) with the proceeds of the bonds authorized by Section 1 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

**Section 17.** This resolution shall take effect immediately.

**Section 18.** This resolution or a summary hereof shall be published in full in the official legal newspaper of the City for such purposes, together with a notice of the City Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

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

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#19-2019

**A RESOLUTION AUTHORIZING GENERAL OBLIGATION BONDS OF THE CITY OF BATAVIA, GENESEE COUNTY, NEW YORK, TO FINANCE THE REPLACEMENT OF PUBLIC WATER SYSTEM IMPROVEMENTS AND DRAINAGE SYSTEM IMPROVEMENTS, AS WELL AS AUTHORIZING THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS**

**Motion of Councilperson Briggs**

**WHEREAS**, the **CITY OF BATAVIA** (the “City”), in the County of Genesee, by its City Council has determined it necessary for the City, to undertake the replacement of certain public water system improvements on South Main Street and Brooklyn Avenue (the “Water System Improvements”) and the replacement of certain drainage system improvements on Williams Park (the “Drainage System Improvements”); (the Water System Improvements and the Drainage System Improvements hereinafter jointly referred to as the “Improvements”); and

**WHEREAS**, the estimated combined cost of the Improvements is \$913,000.

**BE IT RESOLVED**, by the affirmative vote of not less than two-thirds of the total voting strength of the City Council of the City of Batavia, Genesee County, New York, as follows:

**Section 1.** The design, construction and implementation of the Improvements are hereby authorized at the estimated combined cost of \$913,000.

**Section 2.** The financing of the Improvements, and the costs of issuance of such financing, (the “specific object or purpose”), is hereby authorized at a maximum estimated aggregate cost of \$933,000.

**Section 3.** The specific objects or purposes are objects or purposes described in Section 11 of the Local Finance Law.

**Section 4.** The City Council, acting as Lead Agency under the SEQRA regulations of the State of New York, hereby determines the Improvements to be TYPE II Actions that do not necessitate the preparation of and Environmental Impact Statement

**Section 5.** The plan for the financing of such maximum estimated cost is by the issuance of general obligation serial bonds of the City in an aggregate principal amount not exceeding \$933,000 which is hereby authorized to be issued therefor pursuant to the Local Finance Law.

**Section 6.** The aforementioned principal amount of serial bonds authorized hereby shall be reduced dollar for dollar by any amount otherwise available and allocated for the costs of

the Improvements by funds made available to the City for said purpose from authorized City Sidewalk Reserve funds as well as any State and/or Federal funds/grants.

**Section 7.** It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

**Section 8.** It is hereby determined that the period of probable usefulness of the Improvements is 30 years, pursuant to subparagraph 1 of Section 11.00.a. of the Local Finance Law. It is hereby further determined that the maximum maturity of the bonds herein authorized will not be in excess of 30 years.

**Section 9.** The faith and credit of the City of Batavia, Genesee County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in every year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year.

**Section 10.** Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the City Council pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the City Manager, the chief fiscal officer of the City. To the extent required by law, this Resolution shall also constitute a "Bond Anticipation Note Resolution" pursuant to the Local Finance Law.

**Section 11.** All other matters except as provided herein relating to the bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue bonds with substantially level or declining annual debt service, shall be determined by the City Manager, as the chief fiscal officer of the City. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the City Treasurer shall determine consistent with the provisions of the Local Finance Law.

**Section 12.** The City Manager is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

**Section 13.** The City Manager is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c12-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

**Section 14.** The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution or an abstract thereof are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- 3) Such obligations are authorized in violation of the provisions of the Constitution of the State of New York.

**Section 15.** The temporary use of available funds of the City, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The City then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the date hereof) with the proceeds of the bonds authorized by Section 1 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

**Section 16.** This resolution shall take effect immediately.

**Section 17.** This resolution or a summary hereof shall be published in full in the official legal newspaper of the City for such purposes, together with a notice of the City Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

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

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## **1MOTION TO ENTER EXECUTIVE SESSION**

### **Motion of Councilperson Pacino**

**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;

**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.**

\* \* \*

Councilperson Bialkowski thanked the speakers that stayed for the business meeting. He said that all of the resolutions voted on at the meeting had been discussed in great detail at previous meetings and had not been rushed through so that the meeting could adjourn.

**Meeting adjourned at 9:30 PM.**

**Respectfully submitted,**

**Aimslee M. Cassidy  
Deputy Clerk-Treasurer**