

CITY OF BATAVIA BUSINESS MINUTES MAY 13, 2019

The regular business meeting of the City Council was held Monday, May 13, 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, Viele, Canale, Christian, Tabelski, and Bialkowski. Councilperson McGinnis was absent.

Council President Jankowski called the meeting to order at 7:00 PM. Councilperson Bialkowski read a piece in memory and honor of Memorial Day and led the Pledge of Allegiance.

The financials from March 2019 were approved.

The minutes from the April 2019 meetings were approved.

The Council President assigned the regular agenda items.

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Communications

The BHS Tri-M Honor Society submitted an application to hold their induction ceremony on Wednesday, May 22nd at 6:30pm in Jackson Square. Council approved.

GCC requested to hold a graduation reception in Jackson Square on Sunday, May 19th from 4:00 – 8:00pm. Council approved.

Charcoal Inc. submitted a liquor license application. There was no objection from the police department. Council approved.

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Council President's Report

Council President Jankowski announced the next regular City Council Conference meeting would be held Tuesday, May 28, 2019 at 7:00 p.m. in the City Hall Council Board Room, 2nd Floor, City Centre.

Proclamations were presented for the following categories:

2018 Homeowner of the Year - Councilperson Tabelski presented Mr. & Mrs. Neth of 150 Osterhout Ave the 2018 Homeowner of the Year Award. They were recognized for

showing great pride in their home, decorating for all occasions and reaching out to new neighbors.

2018 Volunteer of the Year – Councilperson Briggs presented Ms. Ann Marie Suttell with the 2018 Volunteer of the Year award. The City recognizes a volunteer who shows positive dedication to the community. Ms. Suttell continues to devote hours of her time volunteering, demonstrates excellence and goes above and beyond.

2018 Not-for-Profit of the Year – Councilperson Bialkowski presented Crossroads House with the 2018 Not-for-Profit of the Year award. The City recognizes a not-for-profit who provides service to the people of the City. Crossroads House provides end of life and comfort care for people in their last three months of life at no cost to the patient or their families. Councilperson Bialkowski noted they were a hero of the community.

2018 Business of the Year – The Batavian (Howard and Billie Owens) was presented with the 2018 Business of the Year by Councilperson Pacino. She noted that each year the City recognizes a business that provides customer service and integrity. She noted that The Batavian was entering 11 years in business.

Explorer Post Member – Council President Jankowski noted that on 4/18/19, Aubrey Towner, Explorer Post Member, witnessed an accident and immediately reacted. She assisted with care to a 3-year old and injured father. She acted with bravery and confidence. Officer Wojtaszczyk from the Batavia Police Department noted that he wasn't surprised to hear of her actions. He noted that the Explorer Post members meet monthly, Ms. Towner thanked the police department and said they helped her grow as a person.

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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, presented Garrett Macdonald from three+one who explained their services. Mr. Moore noted this was a proposal for the City that he thought Council would be interested in to increase investment earnings. Mr. Macdonald noted that his company provides a service to make taxpayer dollars earn as much as it can. He noted that they are a data company and work with finance personnel to make dollars go further. Mr. Macdonald that they would offer a way to increase revenue without raising taxes and will compliment what the City is already doing. Scott German, County Treasurer, noted that Genesee County has been using their services for about a year and a half and have increased

earnings five times and expect to increase significantly more next year. Councilperson Bialkowski asked what the fee structure was. Mr. Macdonald noted that they charge \$1,000 per year on \$1 million in earnings and the initial fee is \$9,900 but only if they can show we can make 5 times that in savings or revenue. Council agreed to move the item to the next conference agenda.

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Committee Reports

Councilperson Pacino said that the BID had many projects underway, the flowers baskets were ready to go, and they will be walking in the Memorial Day Parade.

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Public Comments

David Fasano, 102 Otis St, noted that he was speaking on behalf of his neighbors as well as himself and was concerned about GCASA possibly purchasing the old St. Nick's club on 241 Swan St. He noted that a majority of their clients are drug addicts and alcoholics and now they want to introduce those clients to his neighborhood. He noted that he and his neighbors don't want them there. Mr. Fasano also noted that if GCASA purchases the property it gets taken off the tax rolls. He felt there had to be some mechanism for owners of properties that would be taken off the tax rolls to put that cost back on them.

Alyssa Smith, 75 N. Lyon St, noted that more and more trucks are in her neighborhood because of the Van Detta Stadium construction and sometimes she can't get out of her driveway. She noted that they are tearing up her yard, trucks are running the stop sign and causing major traffic issues. Ms. Smith noted that power and cable lines have been ripped off by their house by the trucks and they are probably exceeding the weight limit even though there is no weight limit sign on their side of the street. She asked Council to consider doing something about the truck traffic on that small extension.

Jack Chmielowiec, 57 Otis St, was upset that the GCASA issue got this far without the neighborhood knowing about it. He asked how it can be considered with a park and a school so close. He felt it had been a sneaky kind of deal and wanted Council to consider what the neighbors have said and have them go somewhere else.

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Council Responses to Public Comments

Mr. Moore noted that he had met with John Bennett from GCASA and he described the plan for that location. He noted the purchase was tied to a grant and that the City would make sure it was going to be used appropriately within the zoning laws. Mr. Van Nest noted that this was just a property acquisition by GCASA and not a process that would go before the City through the ZBA or PDA unless a request was made for a zoning change.

He noted that the purchase of a property is not something that would come before City Council. Council President Jankowski noted that if GCASAs use of the property isn't what it is already zoned for then they will come before one of the City's committees for approval. He stated that the fact that this hasn't been a process that has taken place in front of the public is normal because it's just a property purchase right now. Councilperson Viele noted that he wouldn't support GCASA's plan but wondered how Council could help out the lady on N Lyon. Mr. Worth noted he had discussed the situation with Chief Heubusch and they would have enhanced enforcement in that area. Chief Heubusch noted that she could reach out to the school for assistance since it is their project. He also noted that the 5 Ton Limit is excluded because it's considered a local delivery. Councilperson Briggs noted that she saw the damage to Ms. Smith's lawn and something has to be done. Councilperson Christian noted that she couldn't believe it when she found out about the GCASA situation, she was going to be there to do whatever she has to to stop it, and is disgusted with the whole thing. Mr. Van Nest noted that the City has to make land use decisions and not project decisions. He noted that the City isn't in the business of stopping projects just because it's unpopular. Councilperson Bialkowski noted that the sixth ward meeting was well attended and if someone makes a purchase offer on a property, there is no notice that is required to be provided. He noted that if a change does go to the ZBA then the public could show up at those meetings to state their feelings. Council President Jankowski noted that he was shocked to find out what happened and certainly doesn't want it there. He noted that there is a no smoking policy yet GCASA watches them smoke just outside their property. He stated that just like anyone buying a house, GCASA can buy this and then we make sure they are in total compliance. He noted there are limited things we can do right now and feels there is a need for the type of facility GCASA wants to provide but just not at that location.

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Unfinished Business

Councilperson Tabelski noted that he attended a NYCOM conference and brought back some information on topics that he will share with Council. He also noted that they started an Elected Officials and it seemed worthwhile.

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#60-2019 A RESOLUTION TO DECLARE POLICE DEPARTMENT EQUIPMENT SURPLUS FOR THE PURPOSE OF DISPOSAL

Motion of Councilperson Pacino

WHEREAS, The Police Department has declared the equipment listed below surplus;
and

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

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

- 2015 Ford Police Interceptor Utility VIN - 1FM5K8ARXFGC68237

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

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#61-2019

A RESOLUTION AUTHORIZING THE CITY COUNCIL PRESIDENT TO SIGN A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN HOMELAND SECURITY INVESTIGATIONS AND THE CITY OF BATAVIA FOR THE REIMBURSEMENT OF JOINT OPERATIONS EXPENSES FROM THE TREASURY FORFEITURE FUND

Motion of Councilperson Bialkowski

WHEREAS, the City of Batavia is desirous of entering into a Memorandum of Understanding with the Department of Homeland Security, specifically Homeland Security Investigations, for the reimbursement of joint operations expenses; and

WHEREAS, the City of Batavia Police intends to use joint funding to purchase a Police K-9 and cover costs associated with training; and

WHEREAS, the City of Batavia must sign a Memorandum of Understanding with Homeland Security Investigations to be the recipient of funding.

NOW THEREFORE, BE IT RESOLVED, that the City Council President for the City of Batavia is hereby authorized to sign a Memorandum of Understanding with Homeland Security Investigations as attached hereto.

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

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#62-2019

A RESOLUTION TO SUPPORT THE SUBMISSION A NEW YORK MAIN STREET GRANT APPLICATION BY THE CITY OF BATAVIA

Motion of Councilperson Viele

WHEREAS, the New York State Office of Community Renewal (NYSOCR) is offering New York Main Street grants of up to \$500,000 through the Consolidated Funding Application (CFA); and

WHEREAS, the New York Main Street program provides funding for restoration or improvement of housing, commercial and streetscape improvements; and

WHEREAS, the City of Batavia is an eligible applicant for the New York Main Street program; and

WHEREAS, the City of Batavia would like to apply for a 2019 Target Area grant under the New York Main Street Program to renovate multiple mixed use building in the Downtown Revitalization Initiative/Business Improvement District boundary; and

WHEREAS, municipalities in which New York Main Street projects are located are required to provide a resolution supporting the application for funding;

NOW THEREFORE, BE IT RESOLVED, that the City of Batavia Council does hereby enthusiastically support the submission of an application for the 2019 New York Main Street Program for up to \$500,000.

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

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#63-2019

A RESOLUTION TO AUTHORIZE THE IMPLEMENTATION AND FUNDING OF AN INFORMATION TECHNOLOGIES UPGRADE CAPITAL PROJECT #1903 (PHASE ONE)

Motion of Councilperson Briggs

WHEREAS, pursuant to General Municipal Law 6-c, the City of Batavia has an established Administrative Equipment Reserve fund that includes in its purpose Information Technology (IT) capital improvement projects; and

WHEREAS, the City of Batavia Administrative Reserve Fund has a balance of approximately \$425,000, with none of the balance committed for use in the 2019-20 budget; and

WHEREAS, the City Council of the City of Batavia has authorized a \$750,000 capital project using Bond Anticipation Notes to convert its current financial and city operations software to a new software package (software conversion project), which includes software, hardware, installation, training, project management, and associated costs; and

WHEREAS, following further evaluation it has been determined that additional Information Technology (IT) infrastructure assessment and equipment investment is needed in order to allow the software conversion project to proceed. This two (2) phase project is titled Information Technologies Upgrade Capital Project #1903; and

WHEREAS, the first phase, at a cost of \$190,000, involves network and desktop computer hardware and software upgrades. It also involves an IT assessment and report with recommendations for additional phase two (2) capital expenditure needs.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia does hereby approve phase one (1) of the Information Technologies Upgrade Capital Project #1903; and

BE IT FURTHER RESOLVED, that the City Council of the City of Batavia does hereby approve the use of \$190,000 from the Administrative Equipment Reserve to cover the IT assessment, and desktop or laptop computer hardware and software replacements as needed, in preparation for the software conversion project; and

BE IT FURTHER RESOLVED, by the City Council of the City of Batavia that the City Manager be and hereby is authorized to make the following budget amendment:

Effective May 13, 2019, amend the 2019-20 budget by increasing the following expenditure account:

001.9950.0906.2112	\$190,000.00
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And by increasing the following revenue account:

001.0001.0511.2112	\$190,000.00
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Seconded by Councilperson Pacino and on roll call approved 8-0.

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#64-2019

A RESOLUTION AUTHORIZING AN INTER-MUNICIPAL TECHNOLOGY ASSESSMENT AND ASSISTANCE AGREEMENT WITH GENESEE COUNTY

Motion of Councilperson Viele

WHEREAS, the City of Batavia intends to perform an information technology assessment and Windows 10 upgrade but does not have in-house IT staff; and

WHEREAS, Genesee County has IT staff with time and experience to assist the City in its technology update; and

WHEREAS, Genesee County has provided a proposal dated April 1, 2019 to provide the required IT assessment and Windows 10 upgrade services at hourly rates of Project Management \$75/hour and LAN Project Services Rate \$50/hour, with a not to exceed amount of \$27,125; and

WHEREAS, General Municipal Law Article 5-G authorizes municipalities to contract for these services between municipal corporations; and

WHEREAS, the City of Batavia desires to enter an inter-municipal agreement to obtain the necessary IT services; and

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia hereby authorizes the Council President to execute an Inter-Municipal Information Technology Assessment and Assistance Agreement with Genesee County.

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

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#65-2019

A RESOLUTION TO ENTER INTO AN AGREEMENT WITH CSL INTERNATIONAL FOR CONSULTING SERVICES FOR THE CREEK PARK FEASIBILITY STUDY

Motion by Councilperson Briggs

WHEREAS, a Project for the Creek Park Feasibility Study is a partnership with community leaders and the City of Batavia to evaluate the feasibility of building a multi-sport complex; and

WHEREAS, the proposed multi-sport complex has the potential to have a transformative impact on the revitalization of Downtown Batavia and will provide Genesee County with a first multi-sport complex; and

WHEREAS, the City of Batavia has received grant funds in the amount of \$50,000 from New York State Homes & Community Renewal and \$5,000 from private local funds individual; and

WHEREAS, a request for proposals was issued on March 22nd for a consultant to perform the feasibility study; and

WHEREAS, proposals were received by thirteen (13) consulting firms and CSL International was selected to perform the work; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia hereby authorizes the City Council President to execute a Consulting Services Agreement with CSL International, for the Creek Park Feasibility Study, at a cost not to exceed \$55,000.

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

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#66-2019

A RESOLUTION TO REJECT ALL BIDS FOR CONTRACT 2019-5 FOR ROOF ALTERATIONS AND REPLACEMENTS IN THE BATAVIA CITY CENTRE

Motion of Councilperson Tabelski

WHEREAS, in accordance with General Municipal Law Section 103, the City of Batavia issued a competitive bid for the replacement of the roof for the Batavia City Centre; and

WHEREAS, Three (3) bids were received on March 19, 2019 and Elmer W. Davis, was the lowest responsible bidder in the amount of \$1,424,000.00 for the replacement of the roof and skylights; and

WHEREAS, after review of all the bids by the City's engineers and the Department of Public Works, it has been determined that the lowest bidder has submitted a bid higher than the estimated cost of the project; and

WHEREAS, the City of Batavia reserves the right to forego any formalities, reject any or all bids, or to waive any irregularities in the bidding process whenever such action is in the best interest of the City of Batavia; and

WHEREAS, the rejection of any and all bids is in the best interest of the City; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia that all bids for contract 2019-5 "Roof Alterations and Replacement Project" submitted on March 19, 2019 be hereby rejected.

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

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#67-2019

**A RESOLUTION AUTHORIZING AGREEMENT WITH NEW YORK STATE
DEPARTMENT OF TRANSPORTATION FOR PRELIMINARY ENGINEERING,
DESIGN, RIGHT OF WAY AND CONSTRUCTION FOR THE CITY OF BATAVIA
PEDESTRIAN WAY IMPROVEMENTS PROJECT**

Motion of Councilperson Briggs

WHEREAS, a project for the reconstruction of approximately 12,000 LF of sidewalk for State Street on both sides from Washington Ave to Richmond Ave, East side of State Street from Hart Street to MacArthur Drive, Washington Avenue on both sides from State Street to Bank Street, the East side of Bank Street from Washington Avenue to North Street and the West side from North Street to Denio Street, and Richmond Avenue on the South side from Ellicott Avenue to State Street, City of Batavia, Genesee County, P.I.N. 4761.00 (the "Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 75% Federal funds and 25% non-Federal funds; and

WHEREAS, the City of Batavia desires to advance the Project by making a commitment of 100% of the non-Federal share of the costs of Preliminary Engineering, Design, Right of Way Acquisitions and Incidentals, and Construction.

NOW THEREFORE, the City Council, duly convened does hereby resolve that the above-referenced Project is approved; and

BE IT FURTHER RESOLVED, that the City Council hereby authorizes the payment in the first instance 100% of the Federal and non-Federal share of the cost of Preliminary Engineering, Design, Right of Way, and Construction for the Project or portions thereof; and

BE IT FURTHER RESOLVED, that the sum of \$1,358,000 is hereby appropriated and made available to cover the cost of participation in the above phases of the Project; and

BE IT FURTHER RESOLVED, that in the event the full Federal and non-Federal share of the Project costs exceeds the amount appropriated above, the City Council shall convene as soon as possible to appropriate said excess amount immediately upon notification by the New York State Department of Transportation thereof; and

BE IT FURTHER RESOLVED, that the Council President be and is hereby authorized to execute all necessary agreements, and the Director of Public Works is authorized to execute certifications or reimbursement requests for Federal aid on behalf of the City Council with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of Project costs and permanent funding of the local share of Federal aid and State aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

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

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#68-2019

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

Motion of Councilperson Bialkowski

WHEREAS, pursuant to General Municipal Law 6-c the City of Batavia has an established Capital Sidewalk Reconstruction Reserve Fund which has a current balance of approximately \$97,700; and

WHEREAS, the City of Batavia receives funding from the New York State Department of Transportation CHIPS Capital Reimbursement Program for the reimbursement of work performed to the City's sidewalks and streets; and

WHEREAS, the City of Batavia has approved a project to reconstruct approximately 12,000 LF of sidewalk known as Pedestrian Way Improvements Project where bids were solicited on March 21, 2019; and

WHEREAS, Two (2) bids were received on April 11, 2019, with the lowest responsible bidder being \$217,000.00 above the federal funding amount therefore requiring additional reserves and CHIPS funding to fund the project; and

WHEREAS, in addition to the Pedestrian Way Project, the City of Batavia has an opportunity to further improve the City's resurfacing program through the utilization of an additional \$20,000 in CHIPS funding.

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Batavia authorize the City Manager to transfer \$96,000 from the Sidewalk 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 001.0001.0511.2107	Sidewalk Reserves	\$ 96,000.00
Expense 001.9950.0906.2107	Capital Projects Sidewalk Reserves	\$ 96,000.00
Revenue 001.0001.3501	CHIPS Reserves	\$141,000.00
Expense 001.5410.0401.9405	Supplies & Materials CHIPS	\$141,000.00

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

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#69-2019

A RESOLUTION TO ENTER INTO AN AGREEMENT WITH CVF, INC. FOR THE CITY OF BATAVIA PEDESTRIAN WAY IMPROVEMENTS PROJECT PIN 4761.00

Motion of Councilperson Pacino

WHEREAS, a project for the reconstruction of approximately 12,000 LF of sidewalk for State Street on both sides from Washington Ave to Richmond Ave, East side of State Street from Hart Street to MacArthur Drive, Washington Avenue on both sides from State Street to Bank Street, the East side of Bank Street from Washington Avenue to North Street and the West side from North Street to Denio Street, and Richmond Avenue on the South side from Ellicott Avenue to State Street, City of Batavia, Genesee County, P.I.N. 4761.00 (the "Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 75% Federal funds and 25% non-Federal funds; and

WHEREAS, the City of Batavia has previously agreed to advance the Project by administering the work; and

WHEREAS, a competitive bid was made by CVF Inc. for the value of \$1,077,776.00 to construct the project.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia that the City Council President is hereby authorized on behalf of the City to execute an agreement with CVF Inc. for the Pedestrian Way Improvements Project.

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

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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)(d), of the Public Officer's Law permits the legislative body of a municipality to enter into Executive Session to discuss "...proposed, pending or current litigation...".

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 Briggs and on roll call approved 8-0.

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Meeting adjourned at 8:11 PM.

Respectfully submitted,

**Heidi J Parker
Clerk-Treasurer**

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5/13/2019