

CITY OF BATAVIA BUSINESS MINUTES JULY 8, 2019

The regular business meeting of the City Council was held Monday, July 8, 2019 at 7:55 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 7:55 PM immediately following the Conference Meeting.

The financials from May 2019 were approved.

The minutes from the June 2019 meetings were approved.

The Council President assigned the regular agenda items.

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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.

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City Manager's Report

Martin Moore, City Manager, said the City had received feedback and comments from visitors to the City that they appreciated how the City looked. Council President Jankowski noted that we take our City for granted because we know all that we want to do to fix it but it is already very nice.

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Committee Reports

Councilperson Pacino said that GO ART! Picnic in the Park was a smashing success and received wonderful comments. She noted that she participated in the Pride Parade, Go Out was a group on their own and it was different than GO ART!

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Unfinished Business

Councilperson Bialkowski asked if there was any progress on the historian. Mr. Moore noted that he spoke with Mr. Barnes and he took it upon himself to do some comparisons. Mr. Moore noted that he would update Council at the next meeting.

Councilperson Christian asked if there were any signs on Ellicott St against using jake brakes. Mr. Worth stated that there were not and he would have to look into that since Ellicott St was a state highway.

Councilperson Canale asked about the situation with the feral cats and assumed it had improved since he hadn't heard anything lately. Council President Jankowski noted that Council was just supporting a private group who was going to work on the feral cat issue. Mr. Moore noted that he would check on it and Councilperson Christian stated that he daughter had gotten a grant to help with the situation.

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#82-2019

A RESOLUTION TO ADOPT LOCAL LAW NO. 3 OF 2019 AMENDING § 22-5 RESIDENCY FOR NEW MUNICIPAL EMPLOYEES OF THE BATAVIA MUNICIPAL CODE

Motion of Councilperson Briggs

WHEREAS, that Local Law No. 3 of the Year 2019 entitled “**LOCAL LAW NO. 3 OF THE YEAR 2019 CITY OF BATAVIA TO AMEND § 22-5 RESIDENCY FOR NEW MUNICIPAL EMPLOYEES OF THE BATAVIA MUNICIPAL CODE**” was introduced before City Council on June 10, 2019; and

WHEREAS, copies of the aforesaid proposed Local Law were laid upon the desk of each member of the City Council by the City Clerk; and

WHEREAS, that the City Council held 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, June 24, 2019; and

NOW THEREFORE, BE IT RESOLVED, that the City Council does hereby adopt the amendments to § 22-5 “Residency for new municipal employees” of the Batavia Municipal Code.

Seconded by Councilperson Viele and on roll call approved 8-1. Councilperson Bialkowski voted no.

Discussion – Councilperson Christian noted that this was a hardship case so she was going to vote for it. Councilperson Bialkowski noted that there was a problem in one specific area with recruiting and retention, didn't know if this would fix, and would rather look at the problem.

Council President Jankowski noted that we restricted it about six or seven years ago to live in the County and we are now expanding back out to adjacent townships. He felt it would help with recruitment, thought it was a fair compromise, and thought we needed to be a little flexible. Councilperson Briggs thought the number one concern should be hiring the best we can hire.

**LOCAL LAW NO. 3 OF THE YEAR 2019
CITY OF BATAVIA**

**TO AMEND § 22-5 RESIDENCY FOR NEW MUNICIPAL EMPLOYEES OF THE
BATAVIA MUNICIPAL CODE**

Be it enacted by the City Council of the City of Batavia, New York. The foregoing amendment shall become effective with this local law immediately upon filing with the Secretary of State.

Section 22. Article II, 22-3 Definitions

§ 22-3 Intent.

The City Council recognizes that emergency situations arise which require employees of the City of Batavia to be near their place of employment and to assume the continuation of public services to protect the health, safety and general welfare of the people. Through adoption of this article, the City Council makes a legislative determination that those who are residents of the City or the County of Genesee take a greater interest in promoting the public safety and health in the future of this community than do nonresidents who reside in areas unaffected by City services. The City Council further declares that such a quality is desirable for its employees. The legislative body considers that residency by its employees within the City or county will assure continuation of essential public services. The City Council determines that the public need is sufficient to require that employees hired or promoted after the effective date of this article be residents of either the City or the county as hereinafter stated.

§ 22-4 Residency.

Residency shall mean, for the purpose of this article, the actual principal domicile of an individual, where he or she normally sleeps and maintains usual personal and household effects.

§ 22-5 Residency for new municipal employees.

[Amended 6-25-2001 by L.L. No. 1-2001; 9-13-2004 by L.L. No. 2-2004]

Except as otherwise provided by law, the City Council hereby establishes a residency requirement for all prospective employees. Every person initially employed by the City of Batavia on or after the effective date of this article, except those set forth in Section 22-6, shall, as a qualification of employment, become a resident of the County of Genesee or any adjacent town to the County of Genesee within six months of the date of conclusion of the probationary period for the City. During the time of service of such an employee, no individual shall cease to be a resident of the County of Genesee or any adjacent town to the

County of Genesee, or of the City of Batavia, depending upon the residency requirements as aforesaid.

§ 22-6 Residency upon promotion.

[Amended 9-13-2004 by L.L. No. 2-2004]

Notwithstanding § [22-5](#), all existing and prospective employees promoted by the City to the positions of City Manager, Assistant City Manager or Clerk-Treasurer on or after the effective date of this article shall be or within one year of such promotion, shall become a resident of the City of Batavia. During the time of employment no individual shall cease to be a resident of the City of Batavia.

§ 22-7 Notice and posting.

A copy of this article shall be provided to each employee upon his or her initial appointment or promotion. However, a failure to do so shall not affect the application of this article to any employee appointed or promoted after its effective date. A copy of this article shall also be posted on all notice boards normally used for employee communications.

§ 22-8 Investigation of residency.

A.

Should it be alleged that an employee is not in compliance with § [22-5](#) or § [22-6](#) of this article, as the case may be, the City Council may initiate a hearing by providing the employee with written notice of his or her alleged violation and shall allow the employee seven calendar days in which to respond. If there is a failure to respond or if, in the judgment of the City Council, the response is not sufficient to satisfy the requirements of this article, the City Council shall set a date to hear the charge of non-residence. The employee shall be sent a notice of the hearing date at least 15 calendar days prior to the hearing. A record of the hearing shall be made. Should an employee establish residency to the satisfaction of the City Council prior to the hearing date, it shall result in a cancellation of the hearing authorized by this section.

B.

To conduct the hearing, the City Council may in writing designate an individual who for the purpose of the hearing shall be vested with all the powers of the City Council and who shall refer the hearing record and his or her recommendations to the City Council for review and decision. Should the City Council determine that an employee is a nonresident in violation of this article, the employee shall be notified in writing that he or she has been deemed to have voluntarily resigned from employment as of the date of the determination. Upon reestablishing residency, an individual having so resigned may apply for reinstatement to his or her former position and shall be reinstated if the position is vacant.

§ 22-9 Waiver of requirements.

A.

In the event that the City Council determines that it is in the best interest of the City of Batavia to do so, the provisions of § [22-5](#) or § [22-6](#) may be waived with

respect to an incumbent or incumbents of a particular title or titles in accordance with the following standards:

(1)

Lack of applicants. The requirement of residency may be waived in those instances where the City has difficulty hiring or promoting the most qualified person because of its residency requirement.

(2)

Necessity for non-residence. The requirement of residency may be waived in those instances where it is determined that residency is not in the best interest of the municipality.

B. Such a waiver shall not in any way affect the application of § [22-5](#) or § [22-6](#) of this article with respect to any other title or titles.

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#83-2019

A RESOLUTION AUTHORIZING BUDGET ADJUSTMENT TO THE DWYER STADIUM REPAIR RESERVE, AND THE CITY MANAGER TO MAKE THE NEEDED FISCAL 2019/20 BUDGET ADJUSTMENTS

Motion of Councilperson Pacino

WHEREAS, the City Council, on June 10, 2019 authorized the Council President to sign an Amendment of the Dwyer Stadium Sublease Agreement that allows the advance of \$25,000 allocated for year two (2) to be utilized in year one (1) for essential repairs and upgrades; and

WHEREAS, the \$25,000 advance of funds requires a budget amendment resolution to utilize funds from the Dwyer Stadium Repair Reserve; and

WHEREAS, General Municipal Law Section 6(D) requires that the City Council hold a Public Hearing prior to adopting a budget resolution appropriating additional Repair Reserve funds and the City Manager to make a budget amendment to revenues and expenses reflecting this appropriation.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia that a Public Hearing is scheduled for July 8, 2019 at 7:00 p.m. in the City Council Chambers regarding a resolution appropriating Dwyer Stadium Repair Reserve Funds and authorizing the City Manager to make the following budget amendment:

Amend the 2019-20 budget by increasing the following expenditure account:

001.1620.0439.2105	\$25,000.00
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And by increasing the following revenue account:

001.0001.0511.2105	\$25,000.00
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Seconded by Councilperson Tabelski and on roll call approved 8-1. Councilperson McGinnis voted no.

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**#84-2019
A RESOLUTION TO AMEND THE 2019/2020 BUDGET RESERVE 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 \$143,663; and

WHEREAS, the City of Batavia has approved a project to replace the roof and skylights on the City Centre concourse as part of a settlement agreement with the City Centre Merchants where bids were solicited on June 11,2019; and

WHEREAS, Four (4) bids were received on June 11, 2019, with the lowest responsible bidder \$94,000.00 above the budgeted funds for Alternate 1 is selected; and

WHEREAS, Additional reserves funding is required to fund the project and Alternate 1;
and

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Batavia authorize the City Manager to transfer \$100,000 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	\$ 100,000.00
Expense 001.9950,0906.2106 Capital Projects transfers out	\$ 100,000.00

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

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**#85-2019
A RESOLUTION TO ENTER INTO AN MEMORANDUM OF UNDERSTANDING
WITH THE BATAVIA CITY SCHOOL DISTRICT FOR SCHOOL RESOURCE
OFFICER(S)**

Motion of Councilperson McGinnis

WHEREAS, the City of Batavia (City) and the Batavia City School District (District) are desirous of working together to promote and maintain an atmosphere of safety for students, staff, faculty, administrators and visitors to the District; and

WHEREAS, the City and the District are desirous of working together to prevent crime, enforce laws, provide a positive police presence, enforce campus security and make security suggestions; and

WHEREAS, the City and District are desirous of working together to encourage, develop and foster communications and dialogue between students, the school community and law enforcement; and

NOW THEREFORE, BE IT RESOLVED, that the City Council President, City Manager and Chief of Police for the City of Batavia are hereby authorized to sign a Memorandum of Understanding between the City of Batavia and the Batavia City School District for School Resource Officer(s).

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

Discussion – Council President Jankowski asked for the agreements to go with the final resolutions so they don't have to look back for the agreement. He also asked that the wording to more clearly reflect what the school will pay for and for the 90 to be changed to 30 days. Mr. Van Nest noted that he would take it under advisement and discuss with the school.

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#86-2019

**A RESOLUTION FOR THE CITY OF BATAVIA TO APPROVE GRANT POLICY
RELATED TO THE CITY OF BATAVIA REVOLVING LOAN FUND**

Motion of Councilperson Bialkowski

WHEREAS, the City of Batavia and Batavia Development Corporation continues to support the growth and prosperity in the City of Batavia by remaining at the cutting-edge of urban economic development programs and best practices; and

WHEREAS, Batavia is known across the state as a progressive leader investing into the City's economic base and businesses; and

WHEREAS, the City Council for the City of Batavia amended the Revolving Loan Fund Agreement on April 8, 2019; and

WHEREAS, according to the amendment, notwithstanding any other provisions of the Revolving Loan Fund Agreement, the Loan Fund may also, on a project specific basis and with City Council approval, make a grant for an eligible project or funding purpose within the City; and

WHEREAS, the City Council for the City of Batavia desires to enact a policy to allow for

grant funds to be accessed for specific purposes including Brownfield Opportunity Area (BOA) advancement, City Priority Economic Development, and Building Improvements; and

WHEREAS, the program will be administered by the Batavia Development Corporation (BDC) with grant funding decisions approved by the City of Batavia Council; and

WHEREAS, grant requests will be reviewed and scored by the Batavia Development Corporation and referred to the City of Batavia City Manager; and

WHEREAS, The City Manager will present the project to the City of Batavia City Council for consideration,

NOW, THEREFORE, BE IT RESOLVED that the City of Batavia Council hereby authorizes the implementation of the City of Batavia Revolving Loan Fund – Grant Policy.

Seconded by Councilperson McGinnis and on roll call approved 8-1. Councilperson Tabelski abstained.

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#87-2019

A RESOLUTION AUTHORIZING THE CREATION OF A TEMPORARY WATER PLANT TRAINEE

Motion of Councilperson McGinnis

WHEREAS, there is an anticipated retirement of a Water Plant Operator at the City's Water Plant; and

WHEREAS, the staffing at this facility is critical for 24 hour per day and 7 day per week operation; and

WHEREAS, the creation of a temporary Water Plant Trainee will allow for training to occur sooner and provide for a more effective transition and operation of this facility;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Batavia authorizes the creation of a Temporary Water Plant Trainee position.

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

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#88-2019

A RESOLUTION TO AMEND THE 2019-2020 POLICE DEPARTMENT BUDGET TO REFLECT THE RECEIPT OF \$8,000 FROM THE SALE OF A SURPLUS POLICE VEHICLE

Motion of Councilperson Canale

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

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#90-2019

**A RESOLUTION, ACCEPTANCE OF FUNDS AND AMEND YOUTH BUREAU
BUDGET FOR YMCA CONTRIBUTIONS TO TEEN CITY**

Motion of Councilperson Pacino

WHEREAS, the City of Batavia Youth Bureau will receive revenue from the YMCA towards the operation of Teen City in the amount of \$3,850.00 for program space during the city's fiscal year; and

WHEREAS, the City of Batavia Youth Bureau will have increased expenditures to the telephone budget line in the amount of \$249.85/month once relocated August 2019 to support the structure of the technology and security properly; and

WHEREAS, to properly account for the receipt and expenditure of this money, a budget amendment needs to be made; and

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the City Manager is authorized to make the following budget amendment to the 2019-2020 budgets effective July 8, 2019 to cover various purchases:

Increase Revenue line:

001.0001.2705	\$3,850.00
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Increase Expense line:

001.7310.0431	\$1,750.00
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Seconded by Councilperson Christian and on roll call approved 9-0.

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#91-2019

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BATAVIA
AUTHORIZING THE APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK
GRANT (CDBG) FUNDS**

Motion of Councilperson Briggs

WHEREAS, NYS CDBG funds provide small communities and counties in New York State with a great opportunity to undertake activities that focus on community development needs such as creating or expanding job opportunities, providing safe affordable housing, and/or addressing local public infrastructure and public facilities issues; and

WHEREAS, the Community Development Block Grant program (“CDBG”) is a flexible program that provides communities with resources to address a wide range of unique community development needs; and

WHEREAS, funds are available through the Community Development Block Grant program (“CDBG”) which is an open enrollment grant with applications available through the 2019 New York State Consolidated Funding Application; and

WHEREAS, in consideration of ongoing growth in the community, the City of Batavia, in its ongoing mission to revitalize its downtown, has identified Genesee Dental as a potential job creator in a portion of Batavia located in a low-to-moderate income area; and

WHEREAS, Genesee Dental will be investing approximately \$1.3 million to rehabilitate a vacant building located at 215 East Main St. next to the proposed Healthy Living Campus, creating approximately 18 new full-time equivalent jobs; and

WHEREAS, if awarded a portion of the Grant proceeds is to be used to fund administrative and delivery cost associated with implementation of the grant; and

WHEREAS, the Batavia Development Corporation (BDC) will support the administrative and delivery of this grant; and

WHEREAS, the City Council of the City of Batavia authorizes the City Manager to apply for funds through the Community Development Block Grant program by completing the 2019 New York State Consolidated Funding Application in anticipation of providing job creation assistance for the expansion of Genesee Dental; and.

NOW, THEREFORE, BE IT RESOLVED BY the City of Batavia that the City Council hereby authorizes and directs the City Manager to apply for funds through the Community Development Block Grant program in anticipation of providing aid for economic and community development in a distressed portion of downtown Batavia.

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

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#92-2019

**A RESOLUTION TO ENTER INTO AN AGREEMENT WITH
GROVE ROOFING SERVICES, INC. FOR BATAVIA CITY CENTRE ROOF
ALTERATIONS AND REPLACEMENT**

Motion of Councilperson Canale

WHEREAS, the City of Batavia has solicited bids for the replacement of several sections of concourse roof, and replacement of the skylights for the Batavia City Centre; and

WHEREAS, Four (4) bids were received on June 11, 2019 and Grove Roofing Services, Inc. from Buffalo, NY was the lowest responsible bidder in the amount of \$664,080.00 for the base bid and alternate 1 of the Roof Alterations and Replacement Project; and

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 the agreement “Roof Alterations and Replacement Project” with Grove Roofing Services, Inc..

Seconded by Councilperson McGinnis 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)(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.

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Meeting adjourned at 8:25 PM.

Respectfully submitted,

**Heidi J Parker
Clerk-Treasurer**