

**SPECIAL BUSINESS MEETING MINUTES
CITY OF BATAVIA
MARCH 25, 2013**

The special business meeting of the City Council was held Monday, March 25, 2013 in the Council Chambers, One Batavia City Centre, Batavia, New York, with Council President Buckley presiding.

Present were Council President Buckley and Councilpersons Pacino, Briggs, Christian, Canale, Cipollone, Doeringer, Hawley and Russell. Councilperson Pacino arrived at 7:15.

Council President Buckley called the meeting to order at 7:00 PM.

Council President Buckley led the Invocation and the Pledge of Allegiance.

The Council President assigned the regular agenda items.

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Old Business

#11-2013

**A RESOLUTION ESTABLISHING THE CITY OF BATAVIA AS LEAD
AGENCY UNDER THE STATE ENVIRONMENTAL QUALITY REVIEW
ACT (“SEQR”) AND DETERMINING SIGNIFICANCE UNDER SEQR OF
LOCAL LAW NO. 3 OF 2013 ENTITLED AMENDMENTS TO SECTION 155,
SOLID WASTE OF THE BATAVIA MUNICIPAL CODE**

Motion of Councilperson Doeringer

WHEREAS, the City of Batavia has introduced Local Law No. 3 of 2013, Entitled Amendments to Section 155, Solid Waste, of the Batavia Municipal Code commonly known as the City of Batavia Garbage and Refuse Law;

WHEREAS, a public hearing was held by City Council on Local Law No. 3 on March 11, 2013;

WHEREAS, the purpose of Local Law No. 3 is to revise Section 155, the Solid Waste provisions of the City of Batavia Municipal Code by eliminating City responsibility for contracting for refuse and recycling collection services within the community, to place responsibility for refuse and recycling disposal on the owners of parcels within the City and to allow for private contracting by property owners for refuse and recycling collection (“the “Action”); and

WHEREAS, the adoption of Local Law No. 3 of 2013 is an Unlisted Action under SEQR; and

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

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

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

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia in accordance with SEQR and 6 NYCRR 617.6 hereby establishes itself as Lead Agency for the purpose of completing SEQR review of Local Law No. 3 of 2013; and it is further

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

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

Seconded by Councilperson Russell and on roll call approved 7-1. Councilperson Cipollone voted no and Councilperson Pacino had not yet arrived.

* * *

#12-2013

RESOLUTION TO ADOPT LOCAL LAW NO. 3 OF 2013 ENTITLED A LOCAL LAW AMENDING §155, SOLID WASTE, OF THE BATAVIA MUNICIPAL CODE

Motion of Councilperson Canale

WHEREAS, the solid waste program of the City of Batavia will be amended and the City Code will need to be updated accordingly; and

WHEREAS, an amendment of the City Code requires the adoption of a Local Law; and

WHEREAS, a public hearing on this proposed Local Law was held on March 11, 2013 before this Council, pursuant to public notice duly published in *The Daily News*.

NOW, THEREFORE, BE IT RESOLVED, that proposed Local Law No. 3 of 2013 entitled a **Local Law Amending §155, Solid Waste, of the Batavia Municipal Code** be and the same is hereby enacted by City Council of the City of Batavia, New York.

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

Discussion – Councilperson Cipollone believed the law wasn't in the best interest of the residents, that the City should be providing a trash removal system, and residents would have gotten a needed service at a reasonable cost. He noted that people will be paying more for what they already had. Councilperson Doeringer wanted an amount paid for trash to be fair for everyone, a system that would increase recycling, and to see if there was a more efficient service than what the City was currently providing. He was shocked to realize people didn't want a better system, they wanted to support ARC and not use totes and wanted government to get out of the way. He felt this local law would give them what they wanted. He hoped citizens would urge ARC to invest in their waste and recycling system to be able to compete and not take for granted the service they provided for the past 28 years. Councilperson Canale felt that was the best option based on feedback received from the public and said he would monitor the new system to see if it was as effective as they thought it would be.

**LOCAL LAW NO. 3 OF THE YEAR 2013
CITY OF BATAVIA**

**A LOCAL LAW TO AMEND §155, SOLID WASTE, OF THE BATAVIA MUNICIPAL
CODE**

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

Section 1. Chapter 155. ARTICLE I

Garbage and Refuse

155-1 Title

This chapter shall be known and may be cited as the "City of Batavia Garbage and Refuse Ordinance."

155-2 Definitions

As used in this chapter, unless the context or subject matter otherwise requires, the following terms shall have the meanings indicated:

CONSTRUCTION WASTE

Waste from building construction, alterations or repair, dirt from excavations or similar

waste products from construction sites.

DEBRIS

Any form of garbage, trash, recyclables, appliances, construction waste, yard waste, bulk items or any other refuse.]

EXCLUDED ITEMS

~~Building demolition and construction wastes from nonresidential properties and lawn and yard waste material.~~

GARBAGE

Animal wastes, fish, fowl, fruit, vegetable matter and such similar wastes incident to the preparation, cooking and serving of food and the handling, storage and sale of food and produce products.

LAWN AND YARD WASTE MATERIAL

Leaves, grass, garden clippings, hedge trimmings, weeds, brush and tree branches.

PRIVATE COLLECTOR

Any person offering to collect and dispose of refuse materials from private properties for financial remuneration.

REFUSE

Solid waste products and materials incident to housekeeping and the conduct of commercial enterprises, including, but not limited to, garbage, paper, cartons, boxes, wood, discarded furniture, metal, tin cans, glass, dirt, ashes and similar solid waste products. The term "refuse" shall be inclusive of all other terms therein defining any other wastes but shall exclude, however, all excluded items as herein defined.

RUBBISH OR TRASH

All other miscellaneous solid waste materials and refuse from housekeeping and commercial enterprises other than garbage and excluded items as herein defined.

155-3 Refuse storage prior to collection

A. Accumulations.

(1) Refuse shall not be permitted to accumulate on any private or public property within the City in such manner as would tend to create a nuisance, health menace or in any manner be injurious to the health or welfare of the inhabitants of the City.

(2) It shall be unlawful and a violation of the article for any person, corporation, association, etc., being the owner, tenant or person, etc., in title and/or in possession of real property to accumulate and/or store, for any purpose whatsoever, used vehicle tires exceeding, in the cumulative, 1,000 cubic feet.

B. Containers. All containers shall be a plastic trash bag or any other type of metal or plastic container that is suitable for the storage of solid waste, which will not deteriorate or break apart when wet. This definition shall specifically exclude cardboard, wood, paper or paperboard containers.

C. Regulations and restrictions.

(1) All solid waste shall be stored in containers.

(2) All containers shall be maintained in a clean, watertight and good condition. All containers kept or placed out of doors, other than plastic garbage bags, shall be provided with tight-fitting lids or covers. All plastic bags shall be securely tied. ~~No container or plastic garbage bag shall exceed 35 gallons in volume or 50 pounds in weight.~~

(3) Except when set out for collection, containers shall be located either indoors, in a completely enclosed structure or facility, or in the rear of premises ~~hidden~~ [obstructed] from view from any adjacent street and/or sidewalk. [Within 24 hours of waste collection, emptied containers shall be returned to an approved storage location.]

(4) No refuse shall be placed at curbside [before 3:00 pm on the day] ~~more than 24 hours~~ prior to scheduled collection.

155-4 Refuse collection

~~A. City's responsibility. The collection of refuse in the City shall be the responsibility of the City which shall make periodic refuse pickups throughout the City from refuse cans provided by property owners or tenants as may be provided by contract with a collector for the City or B.~~ [A. Property owner's responsibility. The property owner shall be responsible for removing and disposing of refuse from the property owner's parcel.]

~~[B. Location of containers. Containers [placed in the right of way for collection] shall [not occupy] be placed [any portion of the street or public sidewalk.] for collection in locations as may be designated by the Department of Public Works or as provided by contract for collection.~~

~~C. Disposal. Disposal of refuse so collected shall only be in such a manner specified by resolution of the Council or contract with a collector awarded by the Council.~~

~~D. Limitations on refuse pickup. Residential and commercial collections of refuse shall be limited to five containers, as defined in § **155-3B**, per week.~~

~~E. [C] Excess [Removal of] garbage and refuse. In the event that more than five containers as set forth in § **155-33B** are placed for collection, [garbage, trash, recyclables, appliances, construction waste, yard waste, bulk items or other refuse is not collected and properly disposed or is placed for collection and is not removed within 24 hours of placement, the Director of Public Works or his/her designated representative shall notify, by regular mail and by affixing to the front door, any such persons that they are in violation of this section.]~~

~~the event that bulk items are not disposed of properly with the required tags or labels as set forth in Subsection **G** herein; the excess or bulk items will not be picked up by the City or its designee. The Department of Public Works will immediately notify in person or by first class mail the~~

~~owner or the owner's executor, legal representative or agent, at the last known address of the same as shown by the records of the City Assessor, that the owner must remove the excess garbage, refuse, rubbish, trash or bulk items, at the owner's expense, within the following time periods: 48 hours from the receipt of notice if personally delivered or affixed to the front door; or 48 hours from deposit of the notice by first class mail. Upon the expiration of the time period herein, the City is authorized to employ a private contractor or utilize City forces to pick up and dispose of the excess garbage, refuse or bulk items. The cost of this disposal, plus a sum of \$50 as an administrative charge, shall be charged to the owner and an invoice shall be sent by first class mail by the City Clerk. If not paid within 30 days, the charge shall be a lien against the real property of the owner to the same extent as City taxes, and shall be included in the general tax roll and enforced in the same manner as other City taxes.~~

~~F. Vacant land. Vacant land which does not contain a building is not eligible for collection, and the owner thereof can not use such a parcel to increase the limits set forth in Subsection D herein.~~

~~G. Bulk items.~~

~~(1) Individual items of refuse, rubbish and trash, as well as metal items which can be recycled and may require a special collection all as hereinafter stated, will be collected from residential units by the City or its designee if each item is marked with the appropriate number of officially designated tags, labels or stickers as herein described. Businesses must make their own arrangements for disposal of these items. The cost for the tags, labels or stickers shall be as set from time to time by resolution of the City Council, and they may be purchased at locations designated by the City Manager.~~

~~(2) The bulk items are as follows:~~

~~(a) One tag, sticker or label for televisions, computers, chairs (single seat), three rolls of carpet or padding which are tied no larger than four feet in length than 50 pounds, tables, metal cabinets (over 50 pounds), and other small furniture items weighing less than 50 pounds.~~

~~(b) Two tags, stickers or labels for box springs, mattresses, couches (two or more seats/cushions), large furniture items, including dressers, chests, desks and other similar items weighing 50 pounds or more; white goods, including stoves, freezers, refrigerators, hot-water heaters, air conditioners, clothes washers or dryers, dishwashers, furnaces and other similar appliance items, toilets, bathtubs or sinks weighing more than 50 pounds, large garden equipment (7 horsepower or larger), including riding lawn mowers and snowblowers and other similar items.~~

~~(c) The City reserves the right to reject any items which are too large or heavy for pick up by the City or its designees.~~

~~H. Residential construction waste.~~

~~(1) Small quantities of construction waste generated by residential property owners may be set out for collection by the property owner as long as the waste meets the general criteria for refuse collection in §§ 155-3 and 155-4A and B.~~

~~(2) Construction waste must be placed in containers. No loose construction waste will be collected.~~

~~(3) No contractor generated construction waste will be collected. It is the responsibility of any contractor generating such waste to remove and dispose of the construction waste in a sanitary and safe manner, and in accordance with applicable state and federal regulations, at his own expense.~~

155-5 Private refuse collection

~~A. License required; regulations. Persons may be licensed, as private collectors to collect refuse, other than garbage at no cost to the City, provided that such collection is performed in accordance with the provisions of this chapter, and any regulations adopted pursuant hereto and produces no objectionable conditions in or on the streets of the City.~~

~~B. Application. Private collectors shall apply to the City Manager for a license before engaging in the refuse collection business, and if such application is approved by the City Manager, a license shall be issued by the Clerk Treasurer.~~

~~C. Fee. The fee for a private collector's license shall be as set from time to time by resolution of the City Council.~~

~~D. Term; display. Each license shall be issued for the calendar year only, regardless of the date of issuance. The collector's license shall be publicly displayed on each vehicle so licensed.~~

155-6-[5] Private rubbish collection vehicles

Every vehicle used to collect and remove rubbish or trash in the City ~~by a licensee under this chapter~~ shall be constructed and equipped as follows:

A. Construction of the vehicle shall be such that trash or rubbish loaded thereon shall be securely contained.

B. The vehicle shall be equipped with a permanently attached cover either of rigid construction or a fabric material.

C. The vehicle shall be equipped with sides of rigid material, either wood or metal, of such type so as to securely contain trash and rubbish.

D. The vehicle shall be equipped with a solid tailgate or rear doors of rigid construction of a

height equal to the sides of the truck which, when closed, shall securely hold or contain all trash or rubbish.

155-7 [6] Illegal disposal of items

A. It shall be unlawful for any person to deposit, dump, scatter or leave any garbage, lawn and yard waste material, refuse, rubbish, trash, hazardous waste, recyclables or any other materials or items of any kind or nature, upon private property or any portion thereof, or upon any public street, [parkway, public sidewalk,] alley, parking lot or other public property; except pursuant to the terms and conditions for the proper disposal of items in the relevant portions of the City of Batavia Municipal Code, and except upon approved public disposal sites as may be designated by the Council, and except where certain of these materials are used in a normal manner for improving property by grading, filling, fertilizing or resurfacing.

B. It shall be a violation of this section concerning private property or any portion thereof without regard to whether or not the person in violation owns the property in question or without regard as to whether or not the person in question has permission from the owner of the private property if the violator does not own the same.

C. The [property] owner of ~~private property~~ shall be legally responsible for any violation of any provision of [this chapter, including violations located within the public right of way immediately adjoining their property.] ~~the Batavia Municipal Code regarding the proper disposal of items as set forth in Subsection A herein by any occupant or tenant of the owner's property.~~

~~**155-8 Disposal sites**~~

~~The Council may from time to time designate a site or sites for disposal of one or more types of material to be maintained and operated for the exclusive use of the residents of the City and private collectors of trash or rubbish licensed by the City. Any person making use of the disposal site for dumping of refuse may be required by the City's employees or its agents to furnish evidence that he or she is a resident of the City or representative of a business located in the City for whom he or she is handling refuse for disposal.~~

155-9 [7] Disposal site use restrictions

A. All dumping or depositing of refuse at any City disposal site shall be done only at the direction of and in the manner prescribed by the City's employees or its agents. Dumping shall be confined to such area or areas as may be designated.

B. It shall be unlawful for any person or persons to dump or deposit any refuse at the disposal site except on the days and during the hours designated by resolution of Council. The days and hours when dumping is permitted shall be conspicuously posted at the disposal site.

C. It shall be unlawful for any person to start a fire at the disposal site.

D. No salvaging or scavenging shall be permitted on the disposal site.

155-10 [8] ~~Excluded items~~ [Notice of violation, hearing and lien procedures.]

A. Notice. When the Director of Public Works or his/her designated representative deems it necessary, he/she shall notify, by regular mail and by affixing to the front door, any such persons that they are in violation of this section. Said notice shall be in substantially the following form:

	<p>TO THE OWNER AND OCCUPANTS OF PROPERTY IN THE CITY OF BATAVIA:</p>
	<p>Please take notice that you are hereby required to remove all garbage, trash, recyclables, appliances, construction waste, yard waste, bulk items or other refuse and debris from the private property and/or the public right of way immediately adjoining the private property owned or occupied by you, and to comply with the ordinance of the City of Batavia relative to Garbage and Refuse. In the event of your failure to remove such debris, the Director of Public Works or his/her duly designated representative may cause such garbage, refuse and debris to be removed, and the actual cost of removal plus \$250 for inspection and other additional costs in connection therewith, shall thereupon become and be a charge and lien upon your property and shall be collected the same as other taxes upon your property.</p>
	<p>Where a violation occurs more than once during the same calendar year with respect to the same parcel of property, a surcharge of \$100 shall be added to the above costs and expenses. Where multiple properties are referenced in a notice, decision and/or order, the surcharge of \$100 shall apply to each separate parcel of property.</p>

B. Failure to comply with notice.

(1) If the provisions of the foregoing subsections are not complied with within two days of the date of mailing and by affixing to the front door of the notice hereinbefore provided for, the Director of Public Works or his/her duly designated representative may remove the garbage, refuse and debris. The actual cost of such removal, plus \$250 for inspection and other additional costs in connection therewith, shall be billed to the property owner, a copy of which shall be forwarded to the City Clerk/Treasurer by the Director of Public Works or his/her duly designated representative. Thirty days after the billing date, all unpaid charges will become and be a lien upon the property on which said garbage, refuse and debris was located and shall be added to and become and form a part of the taxes next to be assessed and levied upon such lot or land and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officer and in the same manner as taxes levied and assessed against such property, or the same may be collected by suit against the owner or owners in the name of the City.

(2) Any person who shall fail, neglect or refuse to comply with the provisions of any notice herein provided for or who shall resist or obstruct the Director of Public Works or his/her duly-designated representative or his employees in removing of garbage, refuse and

debris shall, upon conviction thereof, be subject to a penalty as hereinafter provided, and each day on which such violation continues shall constitute a separate offense.

C. Upon receipt of a hearing request, the Director of Public Works shall set a date, time and place for the same as soon as practicable. The Director shall cause written notice to be given to a representative of the City Inspection Department and to the person requesting the hearing not less than 10 days prior to said scheduled hearing date.

D. At the date, time and place specified in the notice, the City Manager or his designee shall serve as the Hearing Officer and shall conduct the hearing. The hearing shall be conducted informally by the Hearing Officer, and oral or documentary evidence pertinent to the facts and issues raised by the City Inspection Department and other interested parties shall be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. All parties to the hearing shall be afforded a fair hearing providing the basic safeguards of due process, including, but not limited to, the right to counsel, the right to cross examine witnesses, the right to present relevant evidence as well as the right to review adverse evidence.

E. Following the close of the hearing, the Hearing Officer shall make a decision and order as to whether a violation of this chapter has occurred and, if so, the manner and time limits within which the same shall be corrected and/or what charges and costs should be assessed. Such decision and order shall be made in writing, and a copy shall be delivered to each participant in the hearing either personally or by first-class mail.

F. Where a violation occurs more than once during the same calendar year with respect to the same parcel of property, a surcharge of \$100 shall be added to the above costs and expenses. Where multiple properties are referenced in a notice, decision and/or order, the surcharge of \$100 shall apply to each separate parcel of property.

G. In lieu of the foregoing, the Director of Public Works or his/her designated representative may issue and serve an appearance ticket for violation of this chapter to persons within the City of Batavia returnable in the City Court.]

~~Excluded items, as herein defined, are neither garbage and refuse nor recyclables. They shall not be placed at curbside for collection, nor shall they be collected by the City, its employees, agents and contractors. It is the responsibility of the owner, occupant or resident of premises within the City to provide for their safe disposal. It shall be a violation of this article to place any excluded items in with garbage and refuse or recyclables.~~

155-11 [9] — Refuse originating outside the city

~~A. — No person shall bring in, place or deposit or cause to be brought into, placed or deposited in the City of Batavia any garbage, refuse, rubbish, trash, excluded items, recyclables as defined in § 155-22 of Article III, hazardous waste and/or material originating outside the City of Batavia for the purpose of disposing of the same in the City or for the purpose of having the same collected by [private collector], the City, its employees, agents or contractors.~~

~~B. No person who is a resident of the City of Batavia or owner, lessee or person in control of real property within the City shall permit any person to bring in, place or deposit any garbage, refuse, rubbish, trash, excluded items, recyclables, as defined in § 155-22 of Article III, hazardous waste and/or material originating outside the City on any real property owned or leased by him or her or under his or her control, whether for accumulation or collection.~~

155-12 Unauthorized removal or refuse

~~No person other than an authorized employee or agent of the City shall disturb or remove any refuse placed for collection unless authorized by the owner, tenant or occupant of the premises from which the refuse originated.~~

155-13 Additional rules and regulations

~~The Director of Public Works may prepare and publish such additional rules and regulations, not inconsistent herewith, as may be necessary for the effective enforcement and administration of the provisions of this article. A violation of any such rules shall be punishable as a violation of this article.~~

155-14 [9] Penalties for offenses

~~A. Any [violation] person violating any provision of this article other than § 155-11 hereof shall be punishable by a fine of not more than \$250 or imprisonment in the county jail for not more than 15 days, or both.~~

~~[B. The continuation of any violation for each successive day shall constitute a separate offense, and the person allowing or permitting the continuation of a violation may be punished as above provided for each separate offense.]~~

~~B. Any person violating § 155-11 hereof shall be guilty of an unclassified misdemeanor and shall be punished for each conviction by a fine of not less than \$500 and not more than \$1,000. In addition, any violation of said section shall be punishable in the court's discretion by imprisonment of not more than 30 days, or by both such fine and imprisonment.~~

~~C. Each commission or omission of a single act under § 155-11 shall constitute a separate violation of this article. Each day of a separate violation shall constitute a separate offense, which may be punished and prosecuted as such.~~

ARTICLE II **Separation and recycling**

155-15 [10] Findings and purpose

A. The City finds that the removal of certain materials from the solid waste stream will decrease the amount of solid waste disposed of in landfills and aid in the conservation of valuable resources.

B. The City finds that the New York Solid Waste Management Act of 1988 requires all municipalities to adopt a local law or ordinance by September 1, 1992, requiring separation of recyclable and reusable material from solid waste.

C. The City finds that in order to protect the health, safety and welfare of the people of the City, it is necessary for the City to enact this article in order to encourage and facilitate the maximum recycling practicable on the part of every household, business and institution within the City.

D. The City declares that the purpose of this article is to establish, implement and enforce recycling related practices and procedures to be applicable to all waste generators within the City.

155-16 [11] Definitions

As used in this article, the following terms shall have the following meanings:

AUTHORIZED FACILITY

A public or private facility or facilities where recyclables may be delivered for disposal, including but not limited to dropoff centers, materials recovery facilities or other such public or private facilities designated by the Director of Public Works. ~~pursuant to the recycling rules and regulations.~~

CITY

City of Batavia, New York.

COUNTY

Genesee County, New York.

PERSON

Natural persons and all other legal entities, including corporations.

RECYCLABLES

Any material so designated from time to time by the City, County, New York State, federal government[, private collector, waste hauler,] or by the Director of Public Works ~~pursuant to the recycling rules and regulations~~, provided that such material is not hazardous and can be reasonably separated from the solid waste stream and held for material recycling or reuse value.

RECYCLING RULES AND REGULATION

~~Those rules and regulations promulgated pursuant to § 155-17 of this article.~~

SOLID WASTE

All putrescible and nonputrescible solid waste, including but not limited to materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, or are being accumulated, stored or physically, chemically or biologically treated prior to being discarded or rejected, having served their intended use, or as industrial, commercial and agricultural waste,

sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, or waste which appears on the list or satisfies the characteristics of hazardous waste promulgated by the Commissioner of the Department of Environmental Conservation.

SOURCE SEPARATION

The segregation of recyclable material from the solid waste stream at the point of generation for separate collection, sale or other disposition.

WASTE GENERATOR

A. RESIDENTIAL WASTE GENERATOR

— Any person owning and/or occupying a "single-family private dwelling," as said term is defined in § 4 of the New York State Multiple Dwelling Law, that produces solid waste requiring off-site disposal.

B. NONRESIDENTIAL WASTE GENERATOR

— Any person owning and/or occupying a "two-family private multiple dwelling" or a "multiple dwelling," as said terms are defined in § 4 of the New York State Multiple Dwelling Law, as well as owner(s) and/or occupant(s) of all other businesses, governmental agencies, municipalities and other legal entities.

WASTE HAULER

All persons engaged in the commercial collection, transportation and/or disposal of solid waste and/or recyclables generated, originated or brought within the county.

~~155-17 Administration; rules and regulations~~

~~A. — The City Manager or his designee shall be primarily responsible for all ministerial and administrative duties described or reasonably required by the terms of this article. The City Council, among other things, is hereby authorized and directed to develop, promulgate, implement and modify recycling rules and regulations governing the separation, collection, transportation and disposal of recyclables.~~

~~B. — The recycling rules and regulations shall, among other things:~~

~~_____ (1) — Identify, define, expand and amend categories of recyclables to be source-separated and/or subject to special handling requirements;~~

~~_____ (2) — Identify one or more authorized facilities to which recyclables may be delivered, subject to such expectations as the City Council may determine to be in the public interest;~~

~~_____ (3) — Establish a program to implement and enforce source separation which may reflect local differences in population density, accessibility and capacity of markets and facilities;~~

~~collection practices and solid waste composition; and~~

~~_____ (4) _____ Prescribe all other rules and regulations reasonably required by the terms of this article.~~

~~C. _____ In promulgating and enforcing such recycling rules and regulations, the City Council shall use such discretion as necessary to carry out the provisions of this article. When exercising such discretion, the City Council shall consider, among other things:~~

~~_____ (1) _____ Existing source separation, recycling and other resource recovery facilities and practices in the area;~~

~~_____ (2) _____ Expense incurred or to be incurred by waste generators and waste haulers to comply with such recycling rules and regulations;~~

~~_____ (3) _____ The capacity, handling, disposal and marketing capabilities of available facilities;
_____ and~~

~~_____ (4) _____ Other factors affecting the public interest.~~

155-18 [12] Preparation of recyclables for collection

A. Each waste generator in the City shall source-separate recyclables from solid waste as provided in the recycling rules and regulations and comply with all applicable rules and regulations for such source separation as specified therein.

B. Each waste generator in the City shall provide for the removal of recyclables from the property on which they are generated either through a service provided by a municipality, or a private hauler, or by direct haul by the individual waste generator to an authorized facility. specified by the City Council pursuant to the recycling rules and regulations.

C. _____ Nothing in this article is intended to prevent any waste generator from making arrangements for the reuse, private collection, sale or donation of recyclables; provided, however, that such recyclables shall be placed at curbside or at any other designated collection place only on the day the same is designated for collection by the City or after 7:00 [3:00]p.m. on the day before the City's designated collection day. Recyclables placed at curbside for collection by other than the City of Batavia, or by its duly authorized agent, shall be placed in containers differing in color from City distributed [refuse] containers so as to be readily distinguishable from containers used for curbside pickup of recyclables by the City or by its duly authorized agent. All collections of recyclables by other than City employees or agents shall be reported to the City Manager as required by the recycling rules and regulations.

D. _____ From the time recyclables are placed at the curb by a waste generator for collection, they shall become the property of the City of Batavia. It shall be a violation of this article for any person without authority from the City of Batavia to collect, pick up, remove or cause to be

~~collected, picked up or removed any recyclables from curbside. Each such collection, pickup or removal from any one premises shall constitute a separate and distinct offense in violation of this article.~~

155-19 [13] Waste haulers

A. All waste haulers in the City shall offer or cause to be offered to their customer's collection, transportation and disposal services for recyclables to the same extent any such waste hauler offers collection, transportation and disposal services for solid waste. ~~Such services shall be provided on the same day(s) as solid waste pickup services are provided unless otherwise authorized by the recycling rules and regulations.~~

B. No waste hauler shall be required to accept for collection solid waste which has not been source-separated or hazardous waste separated.

~~C. All waste haulers must maintain all records and supply all reports required by the recycling rules and regulations.~~

155-20 [14] Enforcement

A. The City may inspect all portions of vehicles and/or containers used in the collection, transportation and/or disposal of solid waste and/or recyclables, including, but not limited to, containers placed at the curbside of residences, to ascertain compliance with the terms and conditions specified in this article ~~and the recycling rules and regulations.~~

B. During any 12 consecutive month period of time, any residential waste generator violating any provision of this article ~~and/or the recycling rules and regulations~~ shall be punished for each violation as follows: for the first violation, by a written warning; for the second violation, by a fine not to exceed \$25; and for a third and each subsequent violation, by a fine not to exceed \$50.

C. During any 12 consecutive month period of time, any nonresidential waste generator violating any provision of this article ~~and/or the recycling rules and regulations~~ shall be punished for each violation as follows: for the first violation, by a written warning; for the second violation, by a fine not to exceed \$50; and for a third and each subsequent violation, by a fine of not less than \$100 and not more than \$250.

D. Any waste hauler violating any provision of this article ~~other than § 155-18D hereof and/or violating any of the provisions of the recycling rules and regulations~~ shall be punished for each violation as follows: for the first violation, by a fine of not less than \$25; for the second violation, by a fine of not less than \$50; and for a third and each subsequent violation, by a fine of not less than \$100.

~~E. During any 12 consecutive month period of time, any person violating § 155-18D of this article shall be punished for each violation as follows: for a first violation, by a fine of not less than \$50; for a second violation, by a fine of not less than \$125; and for a third and each~~

subsequent violation, by a fine of \$250. In addition, any violation of § ~~155-18D~~ shall be punishable by imprisonment of not more than 15 days.

~~F. — It is the City's intent that persons convicted of violating any provisions of this article other than § 155-18D be made aware of the community's needs for an effective recycling program and be encouraged to recycle. Accordingly, it is urged that violators be sentenced to community service related to the City's recycling efforts whenever and to the extent practicable in lieu of fines being collected.~~

ARTICLE III **Recycling rules and regulations**

155-21 Purpose

The following rules and regulations governing recycling within the City of Batavia are being enacted pursuant to § 155-17 of Article II, Separation and Recycling, of this chapter.

155-22 Definitions

As used in this article, the following terms shall have the following meanings:

AUTHORIZED FACILITY

~~A public or private facility or facilities where recyclables may be delivered for disposal, including but not limited to dropoff centers, materials recovery facilities or other such public or private facilities designated by the Director of Public Works pursuant to the recycling rules and regulations.~~

~~*Editor's Note: Amended at time of adoption of Code (see Ch. I, General Provisions, Art. I).*~~

~~*Editor's Note: The definition of "Committee," as amended 10-24-1994 by L.L. No. 6-1994, which immediately followed this definition, was deleted 12-28-1998 by L.L. No. 3-1998.*~~

CITY

~~City of Batavia, New York.~~

COUNTY

~~Genesee County, New York.~~

PERSON

~~Natural persons and all other legal entities, including corporations.~~

RECYCLABLES

~~Any material so designated from time to time by the City, county, New York State, federal government or by the Director of Public Works pursuant to the recycling rules and regulations, provided that such material is not hazardous and can be reasonably separated from the solid waste stream and held for material recycling or reuse value.~~

~~*Editor's Note: Amended at time of adoption of Code (see Ch. I, General Provisions, Art. I).*~~

RECYCLING RULES AND REGULATIONS

~~Those rules and regulations promulgated pursuant to § 155-23 of this article.~~

SOLID WASTE

~~All putrescible and nonputrescible solid waste, including but not limited to materials or substances discarded or rejected as being spent, useless, worthless or in excess to the~~

~~owners at the time of such discard or rejection, or are being accumulated, stored or physically, chemically or biologically treated prior to being discarded or rejected, having served their intended use, or as industrial, commercial and agricultural waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, or waste which appears on the list or satisfies the characteristics of hazardous waste promulgated by the Commissioner of the Department of Environmental Conservation.~~

SOURCE SEPARATION

~~The segregation of recyclable material from the solid waste stream at the point of generation for separate collection, sale or other disposition.~~

WASTE GENERATOR

~~——— **A. RESIDENTIAL WASTE GENERATOR**~~

~~——— Any person owning and/or occupying a "single family private dwelling" as said term is defined in § 4 of the New York State Multiple Dwelling Law that produces solid waste requiring off site disposal.~~

~~——— **B. NONRESIDENTIAL WASTE GENERATOR**~~

~~——— Any person owning and/or occupying a "two family private multiple dwelling" or a "multiple dwelling" as said terms are defined in § 4 of the New York State Multiple Dwelling Law, as well as owner(s) and/or occupant(s) of all other businesses, governmental agencies, municipalities and other legal entities.~~

WASTE HAULER

~~All persons engaged in the commercial collection, transportation and/or disposal of solid waste and/or recyclables generated, originated or brought within the county.~~

155-23 Recyclables

~~A.—— The City Council of the City of Batavia shall, by resolution as it deems appropriate from time to time, designate the types of recyclables to be separated from the solid waste stream, and how these recyclables shall be prepared for recycling and made ready for pick up.~~

~~B.—— Containers to be used for recyclables have to be ones that are approved or designated by the Director of Public Works.~~

~~C.—— Each waste generator as defined herein shall be limited to placing at the curb for collection two approved containers and one bundle of corrugated cardboard with dimensions of three feet by three feet by three feet.~~

~~D.—— Certain recyclable items which are too large or heavy to be placed in the approved containers shall be picked up by the City or its designee as set forth in § **155-4G** of the Batavia Municipal Code.~~

155-24 Waste delivery and disposal

~~Solid waste generated or originated within the City for collection or which is delivered to an authorized facility for disposal shall be handled as follows:~~

~~A. — Prior to initial collection or transportation, solid waste shall be separated into two streams, recyclables and solid waste.~~

~~B. — Recyclables shall not be commingled with other solid waste during collection, transportation, processing or storage following collection.~~

155-25 Authorized facilities

~~The Director of Public Works shall, from time to time, publish a list of those items that must be delivered for disposal at a named facility.~~

155-26 Reporting requirements

~~A. — Any waste haulers or any other person that collects, transports and/or disposes of recyclables shall maintain monthly records of recyclable material that includes the following:~~

~~—— (1) — The number of households or commercial businesses in which the recyclables were generated.~~

~~—— (2) — The quantity, by ton, of each type of recyclable material collected.~~

~~—— (3) — The quantity, by ton, of each type of recyclable material delivered to each authorized facility.~~

~~—— (4) — Listing by street address of households that are consistently not complying with recycling requirements.~~

~~—— (5) — The quantity, by ton, by month of all waste transported to landfills, incinerators or transfer stations.~~

~~B. — Reports containing the information required in this section shall be compiled and delivered to the Director of Public Works at the end of each reporting period. Reports shall be provided to the Director of Public Works quarterly within 10 business days from the end of each calendar quarter and shall contain information broken down on a monthly basis.~~

155-27 Penalties for offences

~~A. — The City may inspect all portions of vehicles and/or containers used in the collection, transportation and/or disposal of solid waste and/or recyclables, including but not limited to containers placed at the curbside of residences, to ascertain compliance with the terms and conditions specified in this article and in Article **II**, Separation and Recycling, of this chapter.~~

~~B. — During any 12 consecutive month period of time, any residential waste generator violating any provision of this article and/or Article **II**, Separation and Recycling, of this chapter shall be punished for each violation as follows: for the first violation, by a written warning; for~~

~~the second violation, by a fine not to exceed \$25; and for a third and each subsequent violation, by a fine not to exceed \$50.~~

~~C. During any 12 consecutive month period of time, any nonresidential waste generator violating any provision of this article and/or Article II, Separation and Recycling, of this chapter shall be punished for each violation as follows: for the first violation, by a written warning; for the second violation, by a fine not to exceed \$50; and for a third and each subsequent violation, by a fine of not less than \$100 and not more than \$250.~~

~~D. Any waste hauler violating any provision of this article other than § 155-24 hereof and/or violating any of the provisions of Article II, Separation and Recycling, of this chapter shall be punished for each violation as follows: for the first violation, by a fine of not less than \$25; for the second violation, by a fine of not less than \$50; and for a third and each subsequent violation, by a fine of not less than \$100.~~

~~E. During any 12 consecutive month period of time, any person violating § 155-24 of this article shall be punished for each violation as follows: for a first violation, by a fine of not less than \$50; for a second violation, by a fine of not less than \$125; and for a third and each subsequent violation, by a fine of \$250. In addition, any violation of § 155-24 shall be punishable by imprisonment of not more than 15 days.~~

~~F. It is the City's intent that persons convicted of violating any provisions of this article other than § 155-24 be made aware of the community's needs for an effective recycling program and be encouraged to recycle. Accordingly, it is urged that violators be sentenced to community service related to the City's recycling efforts whenever and to the extent practicable in lieu of fines being collected.~~

ARTICLE IV[III]

Dumpsters

155-28- [15] Purpose

This article is adopted for the protection and promotion of the public health, safety and general welfare of the community by regulating the storage of garbage and other waste materials as well as the use and maintenance and operation of bulk garbage containers referred to herein and commonly known as "dumpsters" and "compactors."

155-29 [16] Definitions

As used in this article, the following terms shall have the meanings indicated:

ASHES

The residue from fires used for cooking and heating and on-site incineration.

CONTAINER

Either a dumpster or compactor container used for bulk storage of garbage and other waste materials that can be hauled directly to a point of disposal or emptied into a larger container for transport and disposal.

GARBAGE

Wastes from the preparation, cooking and serving of food; market wastes and wastes from handling, storage and sale of products of any type.

HAZARDOUS WASTE

~~A substance capable of creating harm to people, the environment and/or property.~~ [A solid waste or combination of solid wastes which, because of its quantity, concentration or physical, chemical, or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed. Hazardous waste is defined on the basis of regulations issued pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. Section 9601 et. seq., administered by the United States Environmental Protection Agency.]

RUBBISH

Shall consist of the following:

A. Combustible: paper, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, wood furniture, bedding dunnage and petroleum products.

B. Noncombustible: metals, dirt, glass, crockery and minerals.

WASTE MATERIALS

All trash, refuse, junk and discarded items, including rubbish.

~~155-30~~ [17] Collection

It shall be the absolute obligation of those persons referred to in § ~~155-33~~ [155-20] hereof to provide dumpsters or compactors for the collection of garbage waste materials in accordance with the requirements of this article. Such containers shall be emptied on a periodic basis to avoid overflow of garbage and waste materials onto the ground or in such quantity as to prevent the container cover from being closed. No hazardous waste shall be deposited in any containers.

~~155-31~~ [18] Installation, use and other requirements

A. In all zoning districts upon private property, container plans shall be required either as a separate application or as part of a site plan for all new construction or substantial exterior modifications. Such plans shall be submitted to the Bureau of Inspection initially to obtain a container permit. Such plans shall include the following:

(1) Location of the container site(s).

(2) Design plans of the container platform and enclosure with access for maintenance of equipment including loading/unloading access.

B. In all residential districts, namely R-1, R-2 and R-3, containers shall only be permitted on a temporary basis and shall require a demolition permit from the Bureau of Inspection.

C. No certificate of occupancy shall be issued with regard to new constructions or substantial exterior modifications until all requirements of this article have been complied with and approved.

D. Minimum requirements for the pad and enclosure are:

(1) The container shall be enclosed on all sides by a siding affixed to a permanent frame which will obstruct the container from view. Wood fences or attractive masonry enclosures are preferred. The height shall exceed by one foot the height of the bulk storage container to be housed in the enclosure with a minimum height of six feet.

(2) Enclosure locations shall provide and/or show location of utilities required to operate and maintain the sites in a sanitary manner.

(3) All enclosures shall be maintained and repaired to keep the site neat, safe and sanitary.

E. Garbage and other waste materials must be completely contained within the container. No accumulation of garbage or waste materials will be permitted outside the confines of the container, nor will it be permitted to accumulate garbage or other waste materials so that the container cover cannot be firmly closed. All containers shall have covers or lids and these covers or lids shall remain closed at all times.

F. No container shall be located in or on a public right-of-way, or upon City-owned or City-leased land without prior written approval of the City Council or its designee upon the terms and conditions the City Council or its designee deems advisable which shall be consistent with this article.

(1) All containers located upon public or City property as set forth herein shall be screened with fencing, structures or landscaping as determined by the City. The City will be responsible for installing, constructing, repairing and maintaining this screening. However, the persons designated in § ~~155-33~~ [155-20] will be responsible for bearing the cost of any work performed by the City for the purpose set forth herein.

(2) After completing any work as set forth and required herein, the City will bill the persons responsible as set forth in § ~~155-33~~ [155-20]. Payment may be made at any time prior to one year from the date of invoicing with no additional cost. If an extended payment is selected by the above responsible person, a payment in the amount of at least 1/3 of the cost shall be made prior to the end of the one-year period. An amount of 5% of the unpaid balance is added, and that amount may be paid at any time prior to the end of the second year. A minimum of 1/3 of the total balance, including the 5%, must be paid by the end of the second year. Any remaining amount will have 5% added to it, and that total amount must be paid by the end of the third year. If any such amounts described above are not paid within 60 days of the year-end period all outstanding amounts will be added to the associated property taxes.

G. All containers shall be kept in good repair, be structurally sound, leakproof, and be easily opened and closed. Containers shall be painted as required to prevent the show of rust and deterioration and be so constructed to stand firmly upright.

H. Responsibility for the maintenance in, and around and adjacent to the enclosure including loose garbage, debris and refuse shall be the responsibility as described in § ~~155-33~~ [155-20] herein.

I. All containers shall have a notice with the name of the company supplying the container.

J. Use of joint or shared dumpsters by multiple users is recommended and encouraged.

155-32 [19] Enforcement

The provisions of this article shall be enforced by the Bureau of Inspection. The Bureau of Inspection shall review all new container plans, as well as those containers to be located upon public or City property; and the Bureau of Inspection shall issue the required container permits. After City Council or its designee approves a container upon City property, the Bureau of Inspection shall process annual renewals.

155-33 [20] Applicability of provisions

These provisions shall be applicable to the following persons:

A. The owner of the property serviced by the container;

B. The owner or lessee of the container servicing the property;

C. The user of the container; or

D. The lessee or agent of the owner of the property being serviced.

155-34 [21] Fees

The initial and annual fee thereafter for containers located upon City-owned or City-leased property shall be as set from time to time by resolution of the City Council.

155-35 [22] Penalties for offenses

The first violation of any provisions of this article shall be deemed a violation against such article, and any persons responsible as set forth in § ~~155-33~~ [155-20] shall be issued a warning by regular mail. If such a violation is not corrected within 30 days of mailing, a second warning shall be issued, and the violator shall receive a fine of \$100 upon conviction. If the violation is not corrected within 30 days of mailing of the second warning, the persons responsible shall receive a third warning and be fined \$500 upon conviction. If the violation is not corrected within 30 days of mailing the third warning, then the persons responsible shall be fined \$100 per day thereafter for each day that the violation continues upon conviction.

[155-23 Effective Date

This local law shall take effect June 1, 2013]

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

* * *

#13-2013

A RESOLUTION AUTHORIZING GENERAL OBLIGATION BONDS OF THE CITY OF BATAVIA, GENESEE COUNTY, NEW YORK, TO FINANCE THE PURCHASE OF WHEELED REFUSE CARTS AND 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 purchase various sizes of wheeled refuse carts to be utilized in the City refuse collection service(collectively, the “Refuse Carts”); and

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 purchase of the Refuse Carts (the “Project”) is hereby authorized.

Section 2. The financing of the Project (the “Specific Object or Purpose”), is hereby authorized at a maximum estimated aggregate cost of \$530,000.

Section 3. The Specific Object or Purpose is an object or purpose generally described in Section 11 of the Local Finance Law.

Section 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

Section 5. The City Council, acting as Lead Agency under the SEQRA regulations of the State of New York, has previously issued a NEGATIVE DECLARATION for the Project finding that the same will not have a significant impact upon the environment.

Section 6. The plan for the financing of the cost of the Project is by the issuance of general obligation serial bonds of the City in an aggregate principal amount not exceeding \$530,000 which are hereby authorized to be issued therefor pursuant to the Local Finance Law.

Section 7. It is hereby determined the proposed maturity of the obligations authorized by this resolution will not be in excess of five years.

Section 8. It is hereby determined that the weighted average period of probable usefulness of the aforesaid specific object or purpose is five (5) years, pursuant to Section 11.00.a. of the Local Finance Law.

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 Manager 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 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 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 Cipollone and on roll call failed 8-1. Councilperson Cipollone voted yes.

* * *

#14-2013

**RESOLUTION TO ENTER INTO AN AGREEMENT WITH
ALLIED WASTE SERVICES OF NORTH AMERICAN, LLC AND D/B/A ALLIED
WASTE SERVICES OF BUFFALO FOR THE REFUSE COLLECTION, DISPOSAL
AND RECYCLABLE MATERIALS COLLECTION AND PROCESSING**

Motion of Councilperson Briggs

WHEREAS, in accordance with General Municipal Law Section 103, on November 29, 2012 the City of Batavia issue a competitive bid request for refuse collection, disposal and recyclable materials collection and processing services for a five year period; and

WHEREAS, on January 9, 2013 four companies submitted sealed bids which were publicly opened and read aloud; and

WHEREAS, a competitive bid was made by Allied Waste Services of North America, LLC and D/B/A Allied Waste Services of Buffalo for the refuse collection, disposal and recyclable materials collection and processing as specified in the bid document issued November 29, 2012; and

WHEREAS, in accordance with General Municipal Law Section 103, the City of Batavia has canvassed all bids and evaluated responsiveness to the City of Batavia's bid specifications; and

WHEREAS, Allied Waste Services of North America, LLC and D/B/A Allied Waste Services of Buffalo is the lowest responsible bidder meeting all bid specifications as set forth herein:

	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
6.3.1/ Refuse Collection - single, double, triple, quad and five family parcels	\$100.00	\$102.00	\$106.09	\$110.34	\$115.86
6.3.2/ Refuse Collection - Commercial parcels	\$115.00	\$117.30	\$120.82	\$115.65	\$121.43
6.4/ Refuse Disposal - per ton	\$31.00	\$31.62	\$32.57	\$33.87	\$35.56
6.5/ Every Other Week Recycling Collection and Processing - single, double, triple, quad and five family parcels	\$42.00	\$42.84	\$44.13	\$45.90	\$48.18
6.6/ Commercial Recycling Collection	\$55.00	\$56.10	\$57.78	\$60.09	\$63.19
6.7/ Recycling Revenue Sharing - per ton	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00
6.8/ Refuse Disposal Rebate	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
6.9/ Solid Waste Services at City Parcels/Properties	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

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 Allied Waste Services of North America, LLC and D/B/A Allied Waste Services of Buffalo for the refuse collection, disposal and recyclable materials collection and processing services with a five year term as set forth herein, and at the City's option, a five (5) year extension.

Seconded by Councilperson Christian and on roll call failed 8-1. Councilperson Cipollone voted yes.

* * *

#15-2013

**RESOLUTION TO ENTER INTO AN AGREEMENT WITH
CASCADE ENGINEERING FOR REFUSE AND RECYCLING CARTS**

Motion of Councilperson Russell

WHEREAS, in accordance with General Municipal Law Section 103, on December 3, 2012 the City of Batavia issue a competitive bid request for the supply of wheeled refuse carts in approximately 35, 65 and 95 gallon sizes, wheeled recycling carts in approximately 65 and 95 gallon sizes, and cart replacement parts for a ten year period; and

WHEREAS, on January 9, 2013 three companies submitted sealed bids which were publicly opened and read aloud; and

WHEREAS, a competitive bid was made by Cascade Engineering to supply wheeled refuse carts in approximately 35, 65 and 95 gallon sizes wheeled recycling carts in approximately 65 and 95 gallon sizes, and cart replacement parts as specified in the bid document issued December 3, 2012; and

WHEREAS, in accordance with General Municipal Law Section 103, the City of Batavia has canvassed all bids and evaluated responsiveness to the City of Batavia's bid specifications; and

WHEREAS, Cascade Engineering is the lowest responsible bidder meeting all bid specifications as set forth herein:

<u>PRICING FOR 35 GALLON ROLL OUT CART (REFUSE):</u>					
QUANTITIES	UNIT RATE per Container	UNIT RATE per RFID Chip	UNIT RATE for Delivery	TOTAL COST per CART	
1 - 50	42.00	0.60	3.85	46.45	
<u>PRICING FOR 65 GALLON ROLL OUT CART (REFUSE):</u>					
QUANTITIES	UNIT RATE per Container	UNIT RATE per RFID Chip	UNIT RATE for Delivery	TOTAL COST per CART	
1 - 2000	38.49	0.60	3.85	42.94	
2001 - 4000	37.49	0.60	3.85	41.94	
<u>PRICING FOR 95 GALLON ROLL OUT CART (REFUSE):</u>					
QUANTITIES	UNIT RATE per Container	UNIT RATE per RFID Chip	UNIT RATE for Delivery	TOTAL COST per CART	
1 - 2000	45.33	0.60	3.85	49.78	
2001 - 4000	43.83	0.60	3.85	48.28	
<u>PRICING FOR 65 GALLON ROLL OUT CART (RECYCLING):</u>					
QUANTITIES	UNIT RATE per Container	UNIT RATE per RFID Chip	UNIT RATE for In-mold label	UNIT RATE for Delivery	TOTAL COST per CART
1 - 2000	38.49	0.60	1.75	3.85	44.69
2001 - 4000	37.49	0.60	1.75	3.85	43.69
<u>PRICING FOR 95 GALLON ROLL OUT CART (RECYCLING):</u>					
QUANTITIES	UNIT RATE per Container	UNIT RATE per RFID Chip	UNIT RATE for In-mold label	UNIT RATE for Delivery	TOTAL COST per CART
1 - 2000	45.33	0.60	1.75	3.85	51.53
2001 - 4000	43.83	0.60	1.75	3.85	50.03

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 Cascade Engineering to supply wheeled refuse carts in 35, 65 and 95 gallon sizes, wheeled recycling carts in 65 and 95 gallon sizes, and cart replacement parts for a ten year period.

Seconded by Councilperson Christian and on roll call failed 8-1. Councilperson Cipollone voted yes.

* * *

**#16-2013
RESOLUTION TO ESTABLISH A REFUSE & RECYCLING FUND**

Motion of Councilperson Hawley

WHEREAS, government accounting systems should be organized and operated on a fund basis; and

WHEREAS, Enterprise Funds, as a Proprietary Fund, account for operations that are financed and operated in a manner similar to private business where the intent of the governing body is that the cost of providing goods or services to the general public on a continuing basis be financed and recovered primarily through user charges; and

WHEREAS, activities are required to be reported as an enterprise fund where laws and regulations require that the activity's costs of providing services, including capital costs such as depreciation, be recovered with fees and charges rather than with taxes of similar revenue. Where pricing policies of the activity establish fees and charges designed to recover its costs, including capital costs (such as depreciation or debt service); and

WHEREAS, the Council of the City of Batavia has passed a local law establishing a user fee for collection and disposal of residential, commercial, institution and industrial refuse and recyclables.

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Batavia establish a Refuse & Recycling Fund (Fund 004, New York State Code "EL"), to be organized and operated as a new enterprise fund within the City of Batavia's financial accounting system.

Seconded by Councilperson Briggs and on roll call failed 8-1. Councilperson Cipollone voted yes.

* * *

**#17 -2013
RESOLUTION TO ADOPT THE CITY REFUSE AND RECYCLING USER FEE**

Motion of Councilperson Briggs

WHEREAS, a fee structure is needed in conjunction with the amendments to Chapter 155, Solid Waste; and

WHEREAS, the proposed fees are based on cart size, property classification and exemption status as defined; and

WHEREAS, the fees may, from time to time by resolution of City Council, be updated as necessary;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia to hereby adopt the refuse and recycling user fee as follows:

- 35-gallon (single family) **\$169 per year**
- 64-gallon (single family) **\$177 per year**
- 96-gallon (single family) **\$198 per year**
- Two 64-gallon **\$213 per year**
- Two 96-gallon **\$239 per year**
- Three 96-gallon **\$279 per year**
- Four 96-gallon **\$319 per year**
- Five 96-gallon (five family only) **\$359 per year**

Also, senior citizens that qualify for the Senior Citizen Tax Exemption pursuant to Chapter 166, Article III of the Batavia Municipal Code shall have the option to pay a reduced refuse fee per service choice:

- 35, 64 or 96-gallon (single family) **\$100 per year**
- Two 64 or 96-gallon (double family) **\$150 per year**
- Three 96-gallon (triple family) **\$200 per year**

Seconded by Councilperson Russell and on roll call failed 8-1. Councilperson Cipollone voted yes.

* * *

#18-2013

RESOLUTION TO ADOPT THE 2013-2014 BUDGET ORDINANCE

Motion of Councilperson Christian

WHEREAS, the City Manager prepared and submitted to the City Council a Proposed Budget for the 2013-2014 fiscal year on January 14, 2013 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, said proposed budget has been made public and available for public inspection since January 14, 2013 and a public hearing was held on February 11, 2013 and March 11, 2013; and

WHEREAS, said proposed budget estimated revenues and expenditures for all operating funds of the City of Batavia at \$23,019,508.00, including the General Fund at \$15,474,744.00; and

WHEREAS, said proposed budget includes revenues to be raised through the property tax levy of \$4,981,182; and

WHEREAS, the City Council has reviewed and amended the City Manager's proposed budget;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia that the 2013-2014 Budget Ordinance is hereby enacted pursuant to Section 3.13 of the City Charter.

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

ORDINANCE #001-2013
AN ORDINANCE ADOPTING THE 2013-2014 BUDGET AND DETERMINING THE
AMOUNT OF TAX TO BE LEVIED ON ALL REAL PROPERTY FOR THE 2013-2014
FISCAL YEAR

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

SECTION 1. The proposed Budget for 2013-2014, submitted by the City Manager pursuant to Sections 16.3, 16.4, and 16.5 of the City Charter on January 14, 2013, as amended, setting forth the estimates of revenues and expenditures for the fiscal year 2013-2014 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 2013-2014.

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 2013-2014 is \$4,981,182.00.

SECTION 3. The sum of \$4,981,182 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 2013-2014, 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 2013-2014.

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, 2013.

Budget Summaries

General Fund

General Fund - Capital Reserves	\$	123,500.00
City Council	\$	53,470.00
City Manager	\$	177,510.00
Finance	\$	129,853.00
Administrative Services	\$	230,000.00
Clerk/Treasurer	\$	122,230.00
City Assessment	\$	141,300.00
Legal Services	\$	206,215.00
Personnel	\$	587,260.00
Engineering	\$	34,000.00
Elections	\$	23,365.00
Public Works Administration	\$	109,440.00
City Facilities	\$	257,110.00
Information Systems	\$	66,800.00
General Fund - Contingency	\$	250,000.00
Police	\$	3,891,125.00
Fire	\$	3,853,289.00
Control of Dogs	\$	1,335.00
Inspection	\$	319,740.00
Vital Statistics	\$	17,700.00
Maintenance Administration	\$	195,360.00
Street Maintenance	\$	606,315.00
Public Works Garage	\$	516,570.00
Snow Removal	\$	577,290.00
Street Lights & Traffic Signals	\$	279,875.00
Sidewalk Repairs	\$	75,000.00
Community Development	\$	25,000.00
Economic Development	\$	10,000.00
Council on Arts	\$	2,250.00

Parking Lots	\$ 42,350.00
Parks	\$ 668,420.00
Summer Recreation	\$ 60,840.00
Youth Services	\$ 158,805.00
Medical Insurance	\$ 7,440.00
Historic Preservation	\$ 2,395.00
Community Celebrations	\$ 13,300.00
Planning & Zoning Boards	\$ 3,200.00
Storm Sewer	\$ 230,020.00
Refuse & Recycling	\$ 249,900.00
Street Cleaning	\$ 153,460.00
General Fund - Debt Service/Bonds	\$ 546,418.00
Install Pur Debt - Municipal Lease	\$ 7,198.00
Gen. Fund – Debt Srvc-Energy Lease	\$ 69,007.00
Gen. Fund – Other Gov't Debt	\$ 92,559.00
General Fund - Transfer/Other Funds	\$ 286,530.00
TOTAL	\$ 15,474,744.00

**Water, Wastewater & Workers
Comp Funds**

**PROPOSED
2013/14**

Water Administration	\$ 2,314,060.00
Pump Station & Filtration	\$ 1,354,070.00
Water Distribution	\$ 436,100.00
Water Fund – Medical Insurance	\$ 1,130.00
Water Fund Contingency	\$ 31,700.00
Water Fund - Debt Service/Bonds	\$ 28,023.00
Install Pur Debt – Municipal Lease	\$ 3,999.00
Water Fund– Debt Srvc-Energy Lease	\$ 16,467.00
Water Fund – Transfers for Cap Proj	\$ 64,398.00
Water Fund - Transfer to Other Funds	\$ 288,920.00
Water Fund - Capital Reserve	\$ 55,200.00
TOTAL	\$ 4,594,067.00

Wastewater Administration	\$ 291,360.00
Sanitary Sewers	\$ 431,816.00
Wastewater Treatment	\$ 870,440.00
WW Fund Contingency	\$ 28,636.00

WW Fund – Medical Insurance	\$	760.00
WW Fund - Debt Service/Bonds	\$	154,193.00
WW Fund - Debt Srvc-Energy Lease	\$	6,830.00
Install Pur Debt – Municipal Lease	\$	28,792.00
WW Fund – Transfer to Other Funds	\$	28,310.00
WW Fund – Transfer/Capital Fund	\$	580,000.00
WW Fund - Capital Reserve	\$	118,860.00
<hr/>		
TOTAL	\$	2,539,997.00
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Workers' Compensation	\$	410,700.00
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TOTAL	\$	410,700.00
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TOTAL	\$	23,019,508.00
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* * *

#19-2013

RESOLUTION TO ADOPT LOCAL LAW NO. 2 OF 2013 ENTITLED A LOCAL LAW TO AMEND SECTION §184.41 (A), (B), (C), AND (O) OF THE CODE OF THE CITY OF BATAVIA TO ESTABLISH NEW WATER RATES, METER FEES AND CAPITAL IMPROVEMENT FEE

Motion of Councilperson Russell

WHEREAS, due to the increases in operating costs for the water system, it is necessary to increase rates; and

WHEREAS, an amendment of the City Code requires the adoption of a Local Law; and

WHEREAS, a public hearing on this proposed Local Law was held on February 11, 2013 before this Council, pursuant to public notice duly published in *The Daily News*.

NOW, THEREFORE, BE IT RESOLVED, that proposed Local Law No. 2 of 2013 entitled a **Local Law to Amend Section §184.41 (A), (B), (C), and (O) of the Code of the City of Batavia to Establish New Water Rates, Meter Fees and Capital Improvement Fee** be and the same is hereby enacted by City Council of the City of Batavia, New York.

Seconded by Councilperson Briggs and on roll call approved 7-2. Councilpersons Canale and Hawley voted no.

Discussion – Councilperson Canale hoped that with the economic conditions, the water increase

would not be included in the 2013-2014 budget.

**LOCAL LAW NO. 2 OF THE YEAR 2013
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

~~First 300,000 gallons \$4.44 per 1,000 gallons
Over 300,000 gallons \$3.70 per 1,000 gallons~~

[First 300,000 gallons \$4.53 per 1,000 gallons
Over 300,000 gallons \$3.77 per 1,000 gallons]

Town Served Directly by the City – Building and Hydrants

~~First 300,000 gallons \$5.70 per 1,000 gallons
Over 300,000 gallons \$4.71 per 1,000 gallons~~

[First 300,000 gallons \$5.81 per 1,000 gallons
Over 300,000 gallons \$4.80 per 1,000 gallons]

B. Bulk rate at water plant fill station: ~~\$5.94~~ [\$6.06] per 1,000 gallons; cards: \$12.50 each.

Section 3. Effective Date

The foregoing amendment shall become effective with the water consumed ~~April 1, 2012~~
as billed on and after ~~July 1, 2012~~ [April 1, 2013 as billed on and after June 1, 2013].

C. Quarterly meter service and availability charge for meters:

Type	Size in Inches	Quarterly Fee
Disc	5/8	\$8.65 [8.82]
Disc	3/4	\$10.95 [11.17]
Disc	1	\$11.53 [11.76]

Disc	1 ½	\$19.60 [19.99]
Disc	2	\$27.21 [27.75]
Compound	2	\$23.05 [23.51]
Compound	3	\$87.67 [89.42]
Compound	4	\$139.54 [142.33]
Compound	6	\$210.80 [215.01]
Turbo	3	\$51.87 [52.91]
Turbo	4	\$87.67 [89.42]
Fireline	4	\$87.67 [89.42]
Fireline	6	\$139.54 [142.33]
Fireline	8	\$194.52 [198.41]
Fireline	10	\$254.02 [259.10]

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

O. Quarterly Capital Improvement fee for meters:

Type	Size in Inches	Quarterly Fee
Disc	5/8	\$2.00 [2.50]
Disc	¾	\$2.53 [3.17]
Disc	1	\$2.67 [3.33]
Disc	1 ½	\$4.53 [5.67]
Disc	2	\$6.30 [7.87]
Compound	2	\$5.33 [6.67]
Compound	3	\$20.28 [25.35]
Compound	4	\$32.28 [40.35]
Compound	6	\$48.77 [60.96]
Turbo	3	\$12.00 [15.00]
Turbo	4	\$20.28 [25.35]
Fireline	4	\$20.28 [25.35]
Fireline	6	\$32.28 [40.35]
Fireline	8	\$45.00 [56.25]
Fireline	10	\$58.77 [73.46]

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

* * *

#20-2013
RESOLUTION AUTHORIZING THE ELIMINATION AND CREATION OF
VARIOUS POSITIONS

Motion of Councilperson Hawley

WHEREAS, the proposed budget for fiscal year 2013/14 recommended the elimination and creation of certain positions; and

WHEREAS, the three positions of Lieutenant within the Police Department were proposed to be eliminated with the restructuring of the Police Department. As part of that restructuring, the creation of a full-time Assistant Chief, full-time Sergeant and two full-time Police Officers were recommended; and

WHEREAS, upon adoption of the budget, it will be necessary to eliminate the three lieutenant positions and to create one full-time Assistant Chief, Sergeant and two full-time Police Officers according to Civil Service procedure. The newly created position of Assistant Police Chief will be added to the Non-Union salary schedule, grade XIII.

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Batavia authorizes the eliminations and creation of said positions.

Seconded by Councilperson Briggs and on roll call approved 8-1. Council President Buckley voted no.

* * *

#21-2013

A RESOLUTION AUTHORIZING GENERAL OBLIGATION BONDS OF THE CITY OF BATAVIA, GENESEE COUNTY, NEW YORK, TO FINANCE THE CONSTRUCTION OF HIGHWAY IMPROVEMENTS, AND AUTHORIZING THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS

Motion of Councilperson Cipollone

WHEREAS, the City of Batavia, in the County of Genesee, by its City Council has determined it necessary for the City to undertake certain street improvements to repair and reconstruct all or a portion of Cedar Street, (the “Project”).

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 financing of the Project (the “specific object or purpose”), is hereby authorized at a maximum estimated cost of \$3,000,000.

Section 2. The specific objects or purposes are objects or purposes described in

Section 11 of the Local Finance Law.

Section 3. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

Section 4. The City Council, acting as Lead Agency under the SEQRA regulations of the State of New York, has previously issued a NEGATIVE DECLARATION for the specific object or purpose finding that the same will not have a significant impact upon the environment.

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 \$3,000,000 which are hereby authorized to be issued therefor pursuant to the Local Finance Law.

Section 6. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

Section 7. It is hereby determined that the period of probable usefulness of the aforesaid improvents is fifteen (15) years, pursuant to subparagraph 0 of Section 11.00.a. of the Local Finance Law.

Section 8. 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 9. 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 10. 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 Manager shall determine consistent with the provisions of the Local Finance Law.

Section 11. 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 12. 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 13. 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 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 14. 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 15. This resolution shall take effect immediately.

Section 16. 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 Briggs and on roll call approved 9-0.

* * *

#22-2013

A RESOLUTION AUTHORIZING GENERAL OBLIGATION BONDS OF THE CITY OF BATAVIA, GENESEE COUNTY, NEW YORK, TO FINANCE THE CONSTRUCTION REPAIR OR REPLACEMENT OF SANITARY SEWER SYSTEM IMPROVEMENTS AND AUTHORIZING THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS

Motion of Councilperson Canale

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 certain sanitary sewer system improvements consisting of the repair or replacement of all or a portion of the Tracy Avenue Sewer Main and related appurtenances (collectively, the “Sewer System Improvements”); and

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 Construction of Sewer System Improvements (the “Project”) is hereby authorized.

Section 2. The financing of the Project (the “Specific Object or Purpose”), is hereby authorized at a maximum estimated aggregate cost of \$700,000.

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

Section 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

Section 5. The City Council, acting as Lead Agency under the SEQRA regulations of the State of New York, has previously issued a NEGATIVE DECLARATION for the Project finding that the same will not have a significant impact upon the environment.

Section 6. 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 \$700,000 which are hereby authorized to be issued therefor pursuant to the Local Finance Law.

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 weighted average period of probable usefulness of the aforesaid Specific Object or Purpose is twenty-four (24) years, pursuant to subparagraph 4 of Section 11.00.a. of the Local Finance Law. It is hereby further determined that the weighted maximum maturity of the bonds herein authorized will not be in excess of thirty (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 Manager 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 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 Pacino and on roll call approved 9-0.

* * *

#23-2013
**RESOLUTION TO AUTHORIZE WAGE ADJUSTMENTS FOR NON-UNION AND
PART-TIME CITY EMPLOYEES**

Motion of councilperson Christian

WHEREAS, the City Council of the City of Batavia is desirous of providing a wage adjustments to its non-union and part-time employees.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Batavia, that the following wage adjustment for non-union and part-time employees be and is hereby enacted:

1. 1.5% salary increase effective April 1, 2013

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

Discussion – Council President Buckley felt they had some of the finest people here at the City Centre and appreciated the job they do and thanked them for being dedicated employees.

* * *

#24-2013
**RESOLUTION TO EXTEND THE ECONOMIC DEVELOPMENT SERVICES
AGREEMENT WITH THE
BATAVIA DEVELOPMENT CORPORATION**

Motion of Councilperson Hawley

WHEREAS, the City Council desires to organize and carry out an economic development program to address the economic development needs of the City of Batavia; and

WHEREAS, on May 9, 2011 the City Council executed the Economic Development Services Agreement with the Batavia Development Corporation to hire an economic development professional to carry out an economic development program on its behalf; and

WHEREAS, over the past year and a half the Batavia Development Corporation has worked on various economic development initiatives throughout the City to include, but not limited to, the Batavia Opportunity Area (BOA) program focused on redevelopment of underutilized, vacant and Brownfield properties, clean-up of select contaminated sites, continue revitalization of downtown and advance neighborhood stabilization, implementation of the City's New York Main Street Grant, oversight of the City's revolving loan fund and actively assisting several residential subdivision developments; and

WHEREAS, the City Council is desirous of continuing the positive economic development efforts of the Batavia Development Corporation as they are a critical component of

the City of Batavia's Strategic Plan; and

THEREFORE, BE IT RESOLVED, that the City Council hereby authorizes the extension of the Economic Development Services Agreement with the Batavia Development Corporation for a two year period ending no later than August 31, 2015; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that this agreement shall only be extended upon the annual receipt of Video Lottery Terminal (VLT) aid, and that the City Council annually authorizes \$125,000 of VLT aid to be committed to the City's Revolving Loan Fund to provide funding for the Batavia Development Corporation to carry out an economic development program on the City's behalf; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the extension of the aforementioned agreement will have no impact on the City's annual budget as VLT aid is not budgeted for in the City's General Fund revenues; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that this initiative was identified in the City's proposed Strategic and Business Plan in achieving Key Intended Outcome's identified under the Economic Development and Job Creation strategic priority.

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

* * *

#36-2013

**RESOLUTION TO AUTHORIZE \$45,000 OF THE 2012/13 CONTINGENCY BUDGET
TO SUPPORT COMMUNITY DEVELOPMENT EFFORTS**

Motion of Councilperson Cipollone

WHEREAS, on February 22, 2012 the City was provided the Community Improvement Plan (hereafter "Plan") which outlined a multitude of neighborhood revitalization strategies, community development initiatives and downtown business objectives that identified ways to reinvest and build the community with limited resources; and

WHEREAS, on March 12, 2012 City Council authorized a citizen group, the Vibrant Batavia Task Force (hereafter "Task Force"), to review the Plan and make final recommendations to the City Council as to what activities should be initiated within the community; and

WHEREAS, on January 28, 2013 the Task Force presented to City Council a review of their findings which identified four specific categories to focus on over the next three years: economic development, marketing, neighborhood spirit and neighborhood restoration; and

WHEREAS, it is recommended that the City Council commit \$45,000 from fiscal year

2012/13 Contingency Budget by transferring said amount from unassigned fund balance to committed fund balance effective March 31, 2013, to support the first year's recommendations from the Task Force and monitor the success of the program prior to making another two year commitment; and

WHEREAS, it was recommended that the Task Force commit to a fundraising/sponsorship goal of \$22,000 for the first year;

THEREFORE, BE IT RESOLVED, that the City Council hereby authorizes the transfer of \$45,000 Unassigned Fund balance from the fiscal year 2012/13 Contingency Budget to Committed Fund Balance, and that on April 1, 2013 appropriate the Committed Fund Balance of the aforementioned funding to the Community Development Budget (001.6460.0423); and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the following is recommended in addition to the financial commitment made by the City Council:

1. The funding recommendation is for the fiscal year 2013/2014 only to measure progress and success of the program;
2. City Council, by resolution, officially create the Vibrant Batavia Advisory Committee (hereafter "Committee) clearly identifying the Committee mission;
3. City Council, by resolution, officially appoint the current members of the Task Force to the Committee;
4. City Manager or his/her designee acts as the City staff liaison to the Committee;
5. Vibrant Batavia Advisory Committee provide quarterly updates to the City Council to monitor progress of the proposed program; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that this initiative was identified in the City's proposed Strategic and Business Plan in achieving Key Intended Outcome's identified under the Neighborhood Revitalization and Economic Development and Job Growth strategic priorities.

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

Discussion – Councilperson Doeringer encouraged Council to give them a chance, noted it was a reinvestment in the community, and they were a volunteer board who put in a lot of time and effort and they were ready to move forward.

* * *

Meeting adjourned at 7:25.

Respectfully submitted,

**Heidi J. Parker
Clerk-Treasurer**