

**CITY OF BATAVIA
BUSINESS MINUTES
MAY 13, 2013**

The regular business meeting of the City Council was held Monday, May 13, 2013 at 7:00 PM 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, Cipollone, Canale, Doeringer, Hawley, and Christian. Councilperson Russell was absent.

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

The minutes from the April meetings were approved.

The Council President assigned the regular agenda items.

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Public Hearing

None.

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Communications

St. James Episcopal Church requested to hold their bicycle tour on Saturday, June 15th from 9:00am – 1:00pm. They would start and finish at the church and the route would be out of town. Council approved.

Genesee County Health Department submitted an application for an Anti-Rabies clinic on Saturday, June 1st from 10:00am – 2:00pm in Centennial Park for dogs, cats, and ferrets to provide free immunization for people who can't get to the clinics outside of the City. Council approved.

Batavia Concert Band requested to have Concerts in the Park on Wednesday's from June 19th through August 7th at 7:00pm in Centennial Park. Council approved.

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Council President's Report

Councilperson Hawley presented a proclamation to Eugene Jankowski who retired as a lieutenant after 34-plus years with the Batavia Police Department. Among his accomplishments, Mr. Jankowski formed the Emergency Response Team. Council thanked him for his dedicated service to the City.

Council President Buckley announced that the next regular City Council Conference Meeting would be held on Tuesday, May 28, 2013 at 7:00 PM at the City Hall Council Board Room, 2nd Floor, City Centre.

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City Attorney's Report

Mr. Van Nest noted that he had nothing specific to report.

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City Manager's Report

Mr. Molino noted that he had given Council a copy of arbitration statutes that were getting ready to lapse at the end of June and noted that NYCOM was looking for input from the elected officials.

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Committee Reports

Councilperson Christian noted that the parade participants would be meeting at Easttown Plaza between 9:30 and 9:45am on Monday, May 27th for the Memorial Day Parade which started at 10:00am. Councilperson Doeringer urged Council to approve the resolution establishing and appointing members to Vibrant Batavia.

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Public Comments

John Deleo, 205 Elm St asked Council to pass a resolution and send it to the governor to repeal the Safe Act.

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Council Responses to Public Comments

Councilperson Christian noted that she would like to see a resolution at the next meeting to repeal the Safe Act. Council agreed.

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Unfinished Business

None.

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New Business

#46-2013

RESOLUTION TO AMEND THE PARK PAVILION RESERVATION & PARK RULES

Motion of Councilperson Doeringer

WHEREAS, the City of Batavia provides pavilions for use and rental by residents between the months of May 15th thru October 1st; and

WHEREAS, residents must complete a permit application requested for screening purposes and to ensure the events permitted by the City are appropriate for the surrounding neighborhoods.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia hereby approves Attachment “A” as the Park Pavilion Reservation & Park Rules to be followed by all users of City pavilions and parks.

Seconded by Councilperson Briggs and on roll call approved 7-1. Councilperson Christian voted no.

Attachment “A”

CITY OF BATAVIA PARK PAVILION RESERVATION & PARK RULES

Park Rules

- City Parks are open from May 15th thru October 1st. Park Hours 7:00am to dusk.
- Any event open to the public in a City Park requires an event application to be filed through the City Clerk’s Office.
- Each City Park is equipped with one small grill in the proximity of the pavilion. You may bring other small grills for your use, however, grills larger than 3’ x 2’ for personal use or catered parties are not allowed. **Please**

contact the City Clerk's office and fill out an "Event Application" if you anticipate the use of a grill larger than 3' x 2'.

- Used charcoal from grills must be disposed of properly to keep park clean and to avoid accidental injuries.
- Free standing" (10' X 10' or smaller) Canopy Tents, Awning Tents, Mesh Tents or Easy Pop-Up Tents may be put up. *For safety reasons stakes should not go more than 4" into the ground. **Please contact the City Clerk's office and fill out an "Event Application" if you anticipate the use of tents larger than 10' x 10'.**
- City provides trash cans. Any trash beyond the capacity of trash cans shall be carried out by the user.
- No amusement rides, bounce houses or extraordinary structures/equipment will be allowed. **Please contact the City Clerk's office and fill out an "Event Application" if you anticipate the use of this type of equipment.**
- Limited electricity is available at the pavilions. Overloaded circuits will not be reset.
- Limited restroom supplies are provided for all park patrons. It is suggested that you bring your own restroom supplies.

THE FOLLOWING ITEMS ARE PROHIBITED FROM THE PARKS

- Tobacco products.
- Alcohol (May be permitted only with pavilion reservation)
- Glass containers.
- Paint or paint-ball guns.
- Sale of food or drinks.
- Motorized vehicles of any kind (unless needed for a physical disability)

Pavilion Reservation Procedure

- Pavilion Reservations will be accepted after January 1st of each year. Pavilion reservations become valid only upon receipt of a \$25.00 fee. Reservations are for the pavilion only and all other park facilities remain open to the public. Pavilion Reservation Applications are to be filed with the City Clerk's office.
- Pavilion renters must be 21 years of age or older to reserve park pavilion.
- All pavilion permit holders should have their permit with them the day of the reservation.
- No more than TWO (2) reservations per month will be issued to the same person or organization.

- Pavilion users must follow all Park Rules.
- The use of alcohol during the event must be designated and approved by the city as part of the pavilion application process.
- At the end of the rental, pavilions should be returned to their proper condition. Picnic tables should not be removed from the pavilion.
- The City reserves the right to request additional information from any applicant prior to approving a pavilion reservation application. Applicants may be requested to complete a City event application if needed.

For any variance to the Pavilion Reservation Procedure or Park Rules, an Event Application must be submitted and approved by the City.

The “contact phone number” for assistance on evenings or weekends is **345-6350**. During normal working hours call the Bureau of Maintenance at **345-6400 Option “1”**

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**#47-2013
RESOLUTION TO APPOINT MEMBERS TO VARIOUS CITY COMMITTEES/
BOARDS**

Motion of Councilperson Cipollone

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

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

Audit Advisory Committee

Councilperson Cipollone
Councilperson Canale
Kathleen Saville
Scott Rozanski
Bruce Tehan

Term Expiration

December 31, 2013
December 31, 2013
December 31, 2013
December 31, 2013
December 31, 2013

Board of Assessment Review

Robert Gerace

Term Expiration

September 30, 2017

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

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#48-2013

RESOLUTION ESTABLISHING THE VIBRANT BATAVIA COMMITTEE AND APPOINT MEMBERS TO THE VIBRANT BATAVIA COMMITTEE

Motion of Councilperson Hawley

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 the Vibrant Batavia Task Force (hereafter “Task Force”), a citizen group charged with reviewing the Plan and making 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, on March 25, 2013 the City Council appropriated \$45,000 from fiscal year 2012/13 Contingency Budget 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; and

WHEREAS, the Vibrant Batavia Committee is fully engaged and will remain passionately committed to furthering the Plan’s initiatives supporting economic development, marketing, neighborhood spirit and neighborhood restoration throughout the City of Batavia.

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Batavia establishes the Vibrant Batavia Committee and that the following appointments be made to this Committee:

Term Expires

Brian Kemp	December 31, 2014
Lynn Bezon	December 31, 2014
Nicholas Garofalo	December 31, 2014
Kelly Kiebala	December 31, 2014
Mary Valle	December 31, 2014

David Snyder	December 31, 2015
Marty McDonald	December 31, 2015
Steve Maxwell	December 31, 2015
John Cascell	December 31, 2015
Gretchen Difante	December 31, 2015
Rachel Tabelski	December 31, 2015

Membership - There shall be a Vibrant Batavia Committee whose members shall be appointed by the City Council. The committee shall have a minimum of seven (7) members but no more than eleven (11) members.

City Council Liaison – There shall be a minimum of one (1) City Council liaison appointed to the committee.

Staff Liaison – The City Manager or his/her designee shall be City staff liaison to the committee.

Term and Appointment - The terms of office of the Vibrant Batavia Committee shall be for three (3) years. Initially, five (5) members shall be appointed for two (2) years and six (6) members shall be appointed for three (3) years. After the first term, all members shall be appointed for three (3) years. The terms shall commence immediately and terminate on December 31 of each year. Any vacancy occurring in the office of a member shall be filled by appointment for the unexpired term.

Duties - The committee shall provide such advice as to assist the City Council in developing strategies for furthering the initiatives supporting economic development, marketing, neighborhood spirit and neighborhood restoration throughout the City of Batavia.

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

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#49- 2013

RESOLUTION SUPPORTING THE CONSOLIDATION OF THE VA WNY HEALTH CARE FACILITY DEATH RECORDS WITH THAT OF THE CITY OF BATAVIA DEATH RECORDS

Motion of Councilperson Christian

WHEREAS, the Registrar of Vital Statistics of the City of Batavia has agreed to consolidate and accept the death records of the VA WNY Health Care Facility into the City of Batavia’s possession; and

WHEREAS, based upon approval by the Batavia City Council, the New York State Commissioner of Health may issue an order combining the records;

NOW, THEREFORE, BE IT RESOLVED that upon the request of the City of Batavia and the VA WNY Health Care Facility, the Batavia City Council does hereby approve the

consolidation and combination of the death records of both parties, subject to the approval of NYS Commissioner of Health; and

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to send a certified copy of this resolution to the New York State Commissioner of Health and the Registrar of the VA WNY Health Care Facility.

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

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#50-2013

RESOLUTION AUTHORIZING THE CITY COUNCIL PRESIDENT TO SIGN A BOUNDARY LINE AGREEMENT

Motion of Councilperson Canale

WHEREAS, the City of Batavia is desirous to allow the owner of 59 Main Street to build a permanent covered structure that would allow for up to a four (4) foot overhang with gutters over the walkway connecting Main Street to the Court Street parking lot; and

WHEREAS, the project requires a Boundary Line Agreement between the City of Batavia and the property owner;

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the Council President by and is hereby authorized to sign said Boundary Line Agreement as stated in "Attachment A" on behalf of the City of Batavia.

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

Attachment A

BOUNDARY LINE AGREEMENT

(Owner owned Improvement inside Neighbor's property)

City of Batavia, One City Centre, Batavia, New York 14020 ("Neighbor") is the sole owner of property at 30-32 Jackson Street, Batavia, New York, and 59 of Batavia, LLC ("Owner") is the sole owner of property at 59 Main Street, Batavia, New York.

An instrument survey map of Owner's property was completed by Gregory W. Townsend, on April 17, 2011, a copy of which is attached ("Map") and the Map purports to show an structural overhang and gutter (the "Improvement") extending on to Neighbor's property as much as four (4) feet.

As shown on the Map, the parties share a common boundary line which is the Neighbor's easterly record line of title by deed ("Neighbor's Boundary Line") and the Owner's westerly record line of title by deed ("Owner's Boundary Line").

The Improvement, while owned by Owner, might act as an encumbrance upon the land of the Neighbor in that it appears to extend beyond the Owner's Boundary Line and inside the Neighbor's Boundary Line.

The parties to this Agreement are mutually desirous of entering into an Agreement to clarify the understanding with regard to the location of the Improvement.

In consideration of the mutual promises contained herein, the parties agree as follows:

FIRST: The Neighbor agrees that so long as the Improvement is located in its present position, it may remain in its current placement, and may be reasonably used, repaired and maintained by Owner, and further agrees that Owner may have reasonable access to the Improvement so long as the Improvement stands, for the purpose of making repairs and maintenance to the Improvement.

SECOND: Despite the location of the Improvement, Owner relinquishes to Neighbor any right, title or interest Owner might have in and to any lands lying beyond Owner's Boundary Line and inside Neighbor's Boundary Line and further agrees that if such Improvement is replaced in the future, said Improvement will be replaced wholly within Owner's Boundary Line.

THIRD: The Owner shall defend, indemnify and hold the City of Batavia harmless from and against any and all liability, personal injury or property damage that may arise related to the Improvement.

FOURTH: The Owner shall be responsible for clearing and removing snow and ice from the adjoining sidewalk on the Neighbor's property.

FIFTH: This Agreement shall run with the land and shall bind and inure to the benefit of the Neighbor and Owner, their respective heirs, successors and/or assigns.

SIXTH: The words "Neighbor", "Owner" and "Improvement" shall be construed to read in the plural whenever the sense of this Agreement so requires.

Dated: _____, 2013

CITY OF BATAVIA

By:

(Neighbor)

By:

(Owner)

STATE OF NEW YORK)
COUNTY OF GENESEE) ss.:

On the ____ day of _____, 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me that (s)he (they) executed the same in (his) (her) (their) capacit(y)(ies), and that by (his) (her) (their) signature(s) on the instrument, the individual(s), or the person(s) on behalf of which the individual(s) acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
COUNTY OF GENESEE) ss.:

On the ____ day of _____, 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me that (s)he (they) executed the same in (his) (her) (their) capacit(y)(ies), and that by (his) (her) (their) signature(s) on the instrument, the individual(s), or the person(s) on behalf of which the individual(s) acted, executed the instrument.

Notary Public

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**#51-2013
RESOLUTION TO DISCONTINUE THE PUBLIC USE AND TO AUTHORIZE THE
COUNCIL PRESIDENT TO SIGN AGREEMENTS FOR THE SALE OF 13-15
JACKSON STREET REAR PROPERTY**

Motion of Councilperson Pacino

WHEREAS, the City foreclosed 13-15 Jackson Street Rear, SBL #84.049-1-24 for non-payment of property taxes; and

WHEREAS, during the course of the past few years the City has undertaken a Request for Development Proposal process regarding the property and not received any acceptable proposals; and

WHEREAS, the property is located in the downtown core of the City and important to re-develop in order to attract new business, activity and economic development within the City;

and

WHEREAS, the City has diligently evaluated various options and discussed re-development of the property with the Batavia Development Corporation; and

WHEREAS, the role of the Batavia Development Corporation is to foster development, economic growth and enhance the quality of life in the City of Batavia; and

WHEREAS, the assessed value of the property is \$15,000; and

WHEREAS, based upon recent inspection of the property by the City of Batavia Department of Public Works, in its present condition the property has negligible value and will require substantial financial investment to be re-habilitated and subject to occupancy; and

WHEREAS, the Batavia Development Corporation is best situated to find an end user with the financial capability and development experience to re-develop said parcel; and

WHEREAS, it is in the best interest of the City of Batavia to sell and transfer said parcel to the Batavia Development Corporation to facilitate re-development of the parcel; and

WHEREAS, the sale of the parcel to the Batavia Development Corporation is in accordance with Batavia Municipal Code Section 66-9(C); and

WHEREAS, in light of the current condition of the structure on the parcel, the City's investigation of the property including the re-habilitation costs to make the structure suitable for occupancy, substantial off-setting costs, expenses and potential demolition costs that would be incurred by the City if it retains ownership of the parcel, the City has determined that it is in the best interest of the City to waive requirements to obtain an appraisal of the property prior to transfer; and

WHEREAS, based upon the considerations affecting this property the City agrees to transfer the parcel to the Batavia Development Corporation for nominal consideration contingent upon the purchaser obtaining a commitment from a developer to acquire, re-habilliate and develop the parcel according to an approved development plan within 12 months of any transfer from the Batavia Development Corporation; and

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia, that it discontinues the public use of said property and authorizes the City Council President to sign all necessary and appropriate closing documents, including a Quit Claim deed, to convey the property to the purchaser of the property, subject to purchaser's execution of a Contract of Sale that is satisfactory to the City Attorney's Office.

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

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Meeting adjourned at 7:25 PM.

Respectfully submitted,

**Heidi J. Parker
Clerk-Treasurer**