

**CITY OF BATAVIA  
BUSINESS MINUTES  
JUNE 10, 2013**

The regular business meeting of the City Council was held Monday, June 10, 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, Russell and Christian.

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

The minutes from the May meetings were approved.

The Council President assigned the regular agenda items.

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**Proclamation Presentation**

Councilperson Cipollone presented a proclamation to the Notre Dame girl's basketball team and congratulated them on winning the 2013 Class D State title. He noted it was their second title in school history and recognized their hard work and effort. Coach Dave Pero presented a hard hat and signed basketball to Council thanking them for their support of their team and hoped they could be displayed somewhere in City Hall.

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**Communications**

Go Art requested to hold the 35<sup>th</sup> annual Picnic in the Park on Thursday, July 4<sup>th</sup> from noon – 5:00pm in Centennial Park. There would be food, craft vendors, music and kids activities. Council approved.

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**Council President's Report**

Council President Buckley announced that the next regular City Council Conference Meeting would be held on Monday, June 24, 2013 at 7:00 PM at the City Hall Council Board Room, 2<sup>nd</sup> 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 nothing specific to report.

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### **Committee Reports**

None.

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### **Public Comments**

Mattie Zarpentine, 106 W Albion St, Holley, spoke about the Safe Act, felt it was wrongly executed and stated that gun bans didn't work. She noted that criminals didn't abide by the law, she was offended that she couldn't defend herself as she used to and implored Council to pass the resolution asking for a repeal of the Safe Act.

Lisa Whitehead, 20 Ellsworth Ave, asked if taxpayers were going to get a refund because they were now paying for their own trash.

Jim Rosenbeck, 13 Lewis Ave, was concerned over the hiring of the consultant for the Vibrant Batavia committee, felt the goals were admirable but didn't believe it was the proper role for city dollars. He noted that the consultant would come and go and wondered if it would be enough to improve the neighborhoods. He felt that Council were the best leaders in their neighborhoods, didn't think it made sense to add another service at that point and felt there were other ways to accomplish the goals. He felt the people of the City needed to own the job of neighborhood improvement and not Council. He noted that people are surprised by Council's actions and then question their motives.

John Deleo, 205 Elm St, expressed his support of the resolution to repeal the Safe Act.

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

Councilperson Doeringer noted that Vibrant Batavia was made up of community volunteers charged with dissecting czb's plan and coming up with recommendations. He

noted they wanted to make it a self-sustaining committee through sponsorships but needed a consultant to get it going. He noted that if there were not sufficient results, Council didn't have to fund the consultant further.

Councilperson Christian noted that it boggled her mind that no one comes to complain at budget time but they show up after the budget has been passed to take issue what was included in the budget.

Councilperson Pacino noted that the money for trash was no longer being paid through taxes and thus there were no rebates to be given. Councilperson Russell explained that Council only funded the two months of garbage collection through May 31<sup>st</sup>, not the whole year so there is no money due back to the taxpayers.

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### **Unfinished Business**

None.

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### **New Business**

#### **#52-2013**

#### **RESOLUTION TO AUTHORIZE BUDGET TRANSFERS AND BUDGET AMENDMENTS AND TRANSFERRING \$1,115 TO THE PARKING LOT CAPITAL RESERVE FUND**

### **Motion of Councilperson Doeringer**

**WHEREAS**, in order to close out the 2012-2013 fiscal year budget certain budget amendments and transfers need to be made; and

**WHEREAS**, pursuant to General Municipal Law 6-c the City of Batavia has an established Capital Sidewalk Reconstruction Reserve Fund; and

**WHEREAS**, the City of Batavia for the fiscal year ending March 31, 2013 received parking permit revenue in the amount of \$1,115.00; and

**WHEREAS**, the City Council is desirous of transferring \$1,115 of parking permit revenue to the Parking Lot Capital Reserve Fund to assist with future replacement and improvements of City parking lots;

**NOW, THEREFORE, BE IT RESOLVED**, that the Council of the City of Batavia does hereby transfer \$1,115 of parking permit revenue to the Parking Lot Capital Reserve Fund; and

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

Effective March 31, 2013, amend the 2012-13 budget by increasing expenditure accounts:

001-1355.0423 Assessment – Contracted service by	\$ 5,787.13
001-1355.0437 Assessment – Professional service by	\$ 4,221.50
001-1420.0405 Legal – Labor counsel by	\$ 19,207.77
001-1420.0437 Legal – Professional service by	\$ 16,546.08
001-1680.0423 Information Tech – Contracted service by	\$ 10,376.67
001-5110.0401.9405 CHIPS - Supplies and materials by	\$133,468.87

by decreasing expense account:

001-1990.0500 Contingency by	\$ 18,362.97
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and increasing revenue account:

001.0001.2725. VLT (Video Lottery Terminal)	\$ 37,776.18
001.0001.3301. Consolidated Highway Aid - CHIPS by	\$133,468.87

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

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**#53-2013**

**RESOLUTION TO ENTER INTO AN AGREEMENT WITH  
RANDSCO PIPELINE, INC.  
FOR 2013-1 SANITARY SEWER INFRASTRUCTURE IMPROVEMENTS  
TRACY AVENUE AND HART STREET SEWERLINE REPLACEMENT**

**Motion of Councilperson Briggs**

**WHEREAS**, a project for the replacement of approximately 1,350 linear feet of 8” sanitary sewer main on portions of Tracy Avenue and Hart Street has been identified as a priority project and funded in the Infrastructure Capital Improvement Plan adopted by City Council; and

**WHEREAS**, a competitive bid was made by Randsco Pipeline, Inc., for the replacement of sanitary sewer as specified in the contract document titled 2013 Sanitary Sewer Improvements, Contract No. 2013-1; and

**WHEREAS**, Randsco Pipeline, Inc. is the lowest responsible bidder (\$581,950.00);

**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 Randsco Pipeline, Inc. for infrastructure improvements.

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

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**#54-2013**

**RESOLUTION CALLING FOR THE REPEAL OF THE SAFE ACT OF 2013**

**Motion of Councilperson Russell**

**WHEREAS**, The right of the people to keep and bear arms is guaranteed as an individual right under the Second Amendment to the United States Constitution, and

**WHEREAS**, The lawful ownership of firearms is, and has been, a valued tradition in the City of Batavia and Genesee County, and the rights protected by the Second Amendment to the United States Constitution are exercised by many of its residents; and

**WHEREAS**, Council of the City of Batavia, being elected to represent the people of the City of Batavia, are duly sworn by their oath of office to uphold the Constitution of the United States; and

**WHEREAS**, The enactment of the NY SAFE Act (Chapter 1 of the Laws of 2013) has engendered significant controversy over both the process by which it was enacted and certain provisions contained within it; and

**WHEREAS**, In our opinion, there was no reason for the Governor to use a message of necessity to bring this bill to vote immediately and bypass the three day maturing process for all legislation; and

**WHEREAS**, Requiring law-abiding gun owners to verify ownership of certain types of firearms every five years, in addition to registering them on their permits, which now also must be renewed every 5 years, does not increase the safety of the public and is unnecessarily burdensome to the law abiding residents of New York State; and

**WHEREAS**, This legislation prohibits the sale of firearm magazines with a capacity larger than seven rounds; and

**WHEREAS**, Few or no low capacity (7 rounds or less) magazines currently exist for many of the firearms commonly possessed by law-abiding residents of New York State; and

**WHEREAS,** Limiting the number of rounds to seven versus ten is arbitrary and capricious, has no correlation to public safety, unfairly burdens law-abiding gun owners, and puts an undue burden on gun manufacturers to retool their manufacturing plants; and

**WHEREAS,** The only persons who will comply with the new high-capacity magazine ban are law-abiding citizens, leaving the same high-capacity magazines in the hands of those whom choose not to obey the law; and

**WHEREAS,** Requiring documentation of all ammunition sales in New York State, as provided for in this legislation, is a significant unfunded mandate on business; and

**WHEREAS,** Governor Cuomo has proposed spending \$36 million dollars in his 2013-2014 Executive budget for the implementation of the NY SAFE Act at a time when New York State residents are crying out for tax relief; and

**WHEREAS,** This legislation severely impacts the privacy, possession and use of firearms now employed by the residents of the City of Batavia for defense of life, liberty, and property; and

**WHEREAS,** This legislation severely impacts the possession and use of firearms now employed for safe forms of recreation including, but not limited to, hunting and target shooting; and

**WHEREAS,** This legislation fails to offer any meaningful solutions to gun violence and places increased burdens where they do not belong, squarely on the backs of law-abiding citizens; and

**WHEREAS,** This legislation effectively turns countless New York State law-abiding gun owners into criminals.

**NOW, THEREFORE, BE IT RESOLVED,** That the Council of the City of Batavia supports the positions adopted by resolution from the Genesee County Legislature, the New York State Sheriff Association and the New York State County Clerks Association; and

**BE IT FURTHER RESOLVED,** That the Council of the City of Batavia does hereby oppose, and request the repeal of, any legislation, including the sections within the NY SAFE Act (Chapter 1 of the Laws of 2013), which infringe upon the right of the people to keep and bear arms; and

**BE IT FURTHER RESOLVED,** That the Council of the City of Batavia considers such laws to be unnecessary and beyond lawful legislative authority granted to our State representatives; and

**BE IT FURTHER RESOLVED,** That a certified copy of this resolution be sent to

Governor Andrew Cuomo, New York State Senator Michael Ranzenhofer, New York State Assemblyman Steve Hawley.

**Seconded by Councilperson Hawley and on roll call approved 7-2. Councilpersons Pacino and Cipollone voted no.**

**Discussion** – Councilperson Pacino felt that a repeal was too big for her and that was why she was voting against the resolution. Councilperson Cipollone found plenty of room for change but didn't agree with an outright repeal. Councilperson Christian felt that anything could happen and that it was the right thing to do so she would vote for the resolution.

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

#### **Motion of Councilperson Russell**

**WHEREAS**, Article 7, Section 105(1)(f), of the Public Officer's Law permits the legislative body of a municipality to enter into Executive Session to discuss "...the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation...".

**WHEREAS**, Article 7, Section 105(1)(h), of the Public Officer's Law permits the legislative body of a municipality to enter into Executive Session to discuss "...the proposed acquisition, sale, or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof...".

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Batavia, that upon approval of this Motion, the City Council does hereby enter into Executive Session.

**Seconded by Councilperson Hawley and all of Council approved.**

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**Meeting adjourned at 7:30 PM.**

**Respectfully submitted,**

**Heidi J. Parker  
Clerk-Treasurer**