

**CITY OF BATAVIA
BUSINESS MINUTES
MAY 12, 2014**

The regular business meeting of the City Council was held Monday, May 12, 2014 at 7:00 PM in the Council Chambers, One Batavia City Centre, Batavia, New York, with Council President Hawley presiding.

Present were Council President Hawley and Councilpersons Pacino, Cipollone, Canale, Deleo, Jankowski, Doeringer and Christian. Councilperson Briggs was absent.

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

The minutes from the April meetings and March 2014 draft monthly financial statements were approved.

The Council President assigned the regular agenda items.

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Communications

None.

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Council President's Report

Councilperson Doeringer presented Frank Childs with a proclamation for his 34-plus years of employment with the City of Batavia. Frank retired as an auto mechanic supervisor and began as an assistant auto mechanic. Council made the proclamation to sincerely thank Frank for his dedication and years of service to the City of Batavia.

Council President Hawley announced that the next regular City Council Conference Meeting would be held on Tuesday, May 27, 2014 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 they continued to work on a variety of matters including tax foreclosures, litigation, claims and insurance but there was nothing specific to report at that time.

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City Manager's Report

Mr. Molino noted that a press release was sent out about the City receiving a 0% rating on its financial stress which was one of the best ratings among cities in Western New York and that it was something to be proud of.

Consolidated Funding Application – Grant Applications:

Mr. Molino noted that applications were due June 16th for the fourth round of grant initiatives and they had identified two possible grants the City may be interested in applying for. He noted there were also TAP grants available and would like to apply for all three grants. Councilperson Pacino asked if the City could get funding for the sidewalks around the high school and Mr. Molino noted that the grant was just for areas around K-8 schools.

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Committee Reports

Councilperson Cipollone noted that preparations were going along well for the Memorial Day Parade and they had obtained some donations for flags from K-Mart, Walmart and Target. Also, Senator Gillibrand sent a letter stating that she was grateful for organizations coming together to make sure the parade continued. Councilperson Pacino noted that the Jackson Square concerts were coming up as was Summer in the City which was August 16th. She also noted that the BID was planning a Christmas parade. Councilperson Christian noted that she had met with Leanna from Vibrant Batavia and they were planning an ice cream social in the sixth ward on June 28th and mulch and plants were being delivered to some streets in the sixth ward as well. Councilperson Doeringer stated that they were still looking for Centennial Celebration volunteers and if anyone needed help organizing an event to contact Vibrant Batavia. Council President Hawley noted that the Batavia Housing Authority hired a new executive director, Casey Czamara. Councilperson Cipollone noted that the WNY Day of Caring was Wednesday and one of the activities was flower planting on Holland Ave.

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Public Comments

None.

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Council Responses to Public Comments

None.

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Unfinished Business

Councilperson Deleo noted that properties at 520 North St and a house on Oak St were in poor condition and asked why the foreclosure process took so long. Mr. Van Nest noted that there was an extensive list of properties on the foreclosure list for the current round, in rem searches needed to be conducted to identify all interested parties, petitions and notices of foreclosures would then be sent to property owners and interested parties, properties have to be published in the papers for several weeks, a final due date would be identified, and the court would finally enter a foreclosure judgment. He noted that the process was very regulated and couldn't be circumvented to speed it up.

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New Business

#36-2014 RESOLUTION ESTABLISHING A CAPITAL RESERVE FOR WATER FUND CAPITAL IMPROVEMENTS

Motion of Councilperson Canale

WHEREAS, that pursuant to Section 6-c of the General Municipal Law, as amended, there is hereby established a capital reserve fund to be known as the Water Capital Improvement Reserve Fund (hereinafter "Reserve Fund"). The purpose of this Reserve Fund is to accumulate moneys to finance the cost of a type of capital improvement. The type of capital improvement to be financed from the Reserve Fund is the reconstruction or improvement of water facilities, filtration and infrastructure capital improvements; and

WHEREAS, the City Manager, as Director of Finance, is hereby directed to deposit and secure the moneys of this Reserve Fund in the manner provided by Section 10 of the General Municipal Law. The City Manager may invest the moneys in the Reserve Fund in the manner provided by Section 11 of the General Municipal Law, and consistent with the investment policy of the City of Batavia. Any interest earned or capital gains released on the moneys so deposited or invested shall accrue to and become part of the Reserve Fund. The City Manager shall account for the Reserve Fund in a manner which maintains the separate identity of the Reserve Fund and shows the date and amount of each sum paid into the fund, interest earned by the fund, capital gains or losses resulting from the sale of investments of the fund, the amount and date of each withdrawal from the fund and the total assets of the fund, showing cash balance and a schedule of investments, and shall, at the end of each fiscal year, render to the City Council a detailed report of the operation and condition of the Reserve Fund; and

WHEREAS, except as otherwise provided by law, expenditures from this Reserve shall be made only for the purpose for which the Reserve Fund is established. No expenditure shall be made from this Reserve Fund without the approval of the City Council and such additional actions

or proceedings as may be required by Section 6-c of the General Municipal Law or any other law, including a permissive referendum if required by subdivision 4 of Section 6-c; and

WHEREAS, the City of Batavia, from 1994 through 2000, contributed funds from the Water Fund to the Capital Fund for improvements to and possible renovation of the Water Filtration Plant; and

WHEREAS, no formal Water Fund Capital Improvement Reserve was established although the contribution aforementioned as been accumulating as a reserve; and

WHEREAS, on February 22, 2010 the City Council adopted a capital improvement fee to fund improvements to the City of Batavia water system where the revenue collected from the imposition of the capital improvement fee was restricted for the sole purpose of funding water facilities and infrastructure capital improvements but did not simultaneously form a reserve to house those restricted funds; and

WHEREAS, the Office of the State Comptroller, during their audit of the City of Batavia in July of 2013, and the City's independent financial auditors have both recommended the City of Batavia create a formal resolution for the Water Fund Capital Improvement Reserve.

NOW, THEREFORE, BE IT RESOLVED, upon the recommendation of the Office of the State Comptroller and the City's independent auditors, the Council of the City of Batavia does hereby establish one Water Fund Capital Improvement Reserve by combining the Water Reserve funds (currently approximately \$2,053,523) with the Capital Improvement Fee funds received since its establishment on February 22, 2010 (currently \$79,960), whereby the funding of such reserve will continue via the Capital Improvement Fee generated as budgeted, along with other funds as authorized by City Council.

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

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#37-2014

**RESOLUTION TO ENTER INTO AN AGREEMENT WITH
KEELER CONSTRUCTION CO., INC.
FOR 2014 INFRASTRUCTURE IMPROVEMENTS
TRUMBULL PARKWAY SANITARY SEWER AND INFRASTRUCTURE
IMPROVEMENT PROJECT**

Motion of Councilperson Jankowski

WHEREAS, a project to furnish and install approximately 1,940 linear feet of 8" PVC sanitary sewer main, sanitary sewer laterals, fittings, water valves, hydrants, water service replacements, milling and paving restoration, and appurtenances along Trumbull Parkway from

East Avenue to Lown Street. Project includes milling and paving of Summit Street and sidewalk replacement at various locations in the City of Batavia; and

WHEREAS, a competitive bid was made by Keeler Construction Co., Inc. for the replacement of sanitary sewer, water services, milling and paving, and sidewalks as specified in the contract document titled 2014 Infrastructure Improvements, Contract No. 2014-1; and

WHEREAS, Keeler Construction Co., Inc. is the lowest responsible bidder (\$1,264,018.00);

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the City Council President is hereby authorized on behalf of the City to execute an agreement with Keeler Construction Co., Inc. for infrastructure improvements.

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

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#38-2014
RESOLUTION TO ENTER INTO AN INTER-MUNICIPAL YOUTH BUREAU
OPERATING AGREEMENT WITH GENESEE COUNTY

Motion of Councilperson Cipollone

WHEREAS, the City of Batavia and Genesee County entered into an Inter-Municipal Youth Bureau Operating Agreement in 2010; and

WHEREAS, the City of Batavia and Genesee County are desirous to continue an Inter-Municipal Agreement to which Genesee County shall provide administrative, supervisory and planning services to the City of Batavia in connection with the operations of the Batavia City Youth Bureau; and

WHEREAS, the new agreement between the City and County for these services would begin April 1, 2014 and expire March 31, 2018;

NOW, THEREFORE, BE IT RESOLVED, that the City Council President for the City of Batavia is hereby authorized to execute an Inter-Municipal Youth Bureau Operating Agreement between the City of Batavia and Genesee County.

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

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#39-2014
RESOLUTION AUTHORIZING THE BATAVIA DEVELOPMENT CORPORATION
TO INITIATE REDEVELOPMENT ACTIVITIES FOR 40-52 ELLICOTT STREET

Motion by Councilperson Christian

WHEREAS, certain real property located at 40-52 Ellicott Street, Batavia New York (the “Della Penna Property”) has been identified by the City of Batavia (the “City”) as a strategic site as part of the City’s Brownfield Opportunity Area (the “BOA”); and

WHEREAS, the Della Penna Property has been vacant and underutilized for nearly a decade and is approximately \$193,974.43 in arrears on its City real property tax, special assessments and fees; and

WHEREAS, the City may take title to the Della Penna Property by obtaining an in rem tax foreclosure judgment; and

WHEREAS, on September 13, 2013, the City issued a Request for Proposals (the “RFP”) to identify individuals or organizations that have an interest in revitalization of the Della Penna Property in accordance with the goals of the BOA; and

WHEREAS, the City received submittals in response to the RFP and continues to review said submittals; and

WHEREAS, the Batavia Development Corporation (the “BDC”) was established as a Not-for-Profit local development corporation pursuant to Section 1411(a) of the New York Not-for-Profit Corporation Law (the “Act”) to, among other items, relieve and reduce unemployment, promote additional employment, bettering and maintaining job opportunities, lessen the burdens of government, and improve the quality of life within the City by encouraging and facilitating the development of underutilized real estate in the City; and

WHEREAS, the City desires to facilitate the remediation, rehabilitation and redevelopment of real estate, including blighted and/or contaminated properties, for use by retail, commercial, and/or industrial businesses and to promote and provide for additional and maximum employment opportunities and investment consistent with the Act and the BOA; and

WHEREAS, the City is willing to undertake the in rem tax foreclosure process with respect to the Della Penna Property; and

WHEREAS, the Act authorizes the Council of the City of Batavia (the “City Council”), by resolution, to determine that certain real property of the City not required for use by the City may be sold or leased to a not-for-profit local development corporation, such as the BDC, thereby lessening the burdens of government and acting in the public interest; and

WHEREAS, the City does not require the use of the Della Penna Property and is willing to make the Della Penna Property available for redevelopment, in a manner consistent with the Act, the BOA, and as contemplated by the RFP, available to the BDC; and

WHEREAS, the City may obtain title to the Della Penna Property through the in rem foreclosure, transfer the Della Penna Property to the BDC for redevelopment purposes consistent with the RFP (the “Action”) and assign the RFP to the BDC for developer selection as determined by the BDC pursuant to and in accordance with Section 1411(d) of the Act; and

WHEREAS, prior to the City conveying the Della Penna Property to the BDC, it is assumed that the BDC will select a preferred developer for purposes consistent with the Act and the BOA; and

WHEREAS, prior to the City conveying the Della Penna Property to the BDC, pursuant to Section 1411(d) of the Act, a public hearing on ten days' notice is required to be conducted by the City Council prior to the adoption of a resolution authorizing any such sale or lease;

NOW, THEREFORE, BE IT RESOLVED, that the Action entails the City proceeding with in rem tax foreclosure of the Della Penna property, future transfer of the Della Penna property to the BDC and immediate assignment of the RFP to the BDC to identify a preferred real estate developer; a complete title transfer will only occur when the preferred developer obtains any and all necessary approvals to improve the Della Penna Property in accordance with the City’s strategic planning; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Action is consistent with the City’s Strategic Plan in achieving Key Intended Outcome’s identified under the Economic Development and Job Creation strategic priority.

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

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**#40-2014
RESOLUTION TO APPOINT MEMBERS TO VARIOUS COMMITTEES**

Motion of Councilperson Pacino

WHEREAS, currently, vacancies exist on various Committees.

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

Historic Preservation Commission

Term Expiration

Teresa Siverling

December 31, 2016

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

Discussion – Councilperson Jankowski asked if the person was in compliance with the charter regarding residency and term. Mr. Molino said they were to the best of his knowledge.

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#41-2014
RESOLUTION PROVIDING SECTION 384-E TO IAFF EMPLOYEES COVERED
BY SECTION 384-D OF THE NEW YORK STATE RETIREMENT AND
SOCIAL SECURITY LAW AND TO ADJUST THE FIRE DEPARTMENT BUDGET

Motion by Councilperson Deleo

WHEREAS, a Memorandum of Agreement with the International Association of Fire Fighters(IAFF)provides a retirement benefit for those employees currently enrolled in the 384-d retirement plan; and

WHEREAS, the City and the IAFF Union agreed to provide the 384-e retirement benefit plan to those employees currently in the 384-d retirement plan; and

WHEREAS, pursuant to General Municipal Law 6-r, the City of Batavia has an established Retirement Contribution Reserve fund for payment of retirement contributions pursuant to Sections 17 and 317 of the Retirement and Social Security Law; and

WHEREAS, the City of Batavia for the fiscal year ending March 31, 2014 has approximately \$387,000 of Retirement Contribution Reserve;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Batavia does hereby elect to provide the additional pension benefits of Section 384-e of the Retirement and Social Security Law for any member of its Fire Department who duly elects Section 384-d of the Retirement and Social Security Law, as presently or hereafter amended; and

BE IT FURTHER RESOLVED, that this election shall become effective beginning on the 12th day of May, 2014 and end on the 11th day of May, 2015; and

BE IT FURTHER RESOLVED, by the Council of the City of Batavia that the City Manager is hereby authorized to make the following budget transfers effective May 12, 2014:

Increasing expenditure account:	
Fire Department	001.3410.0801.2110 \$ 6,436.00
Increasing revenue account:	
Appropriated Retirement Contribution Reserve	001.0001.0511.2110 \$ 6,436.00

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

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#42-2014
RESOLUTION APPROVING THE COLLECTIVE BARGAINING AGREEMENT
WITH THE AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES (AFSCME)

Motion of Councilperson Cipollone

WHEREAS, the City of Batavia and the American Federation of State, County and Municipal Employees (AFSCME) have had collective bargaining sessions; and

WHEREAS, the parties have since been able to negotiate a tentative collective bargaining agreement; and

WHEREAS, City Council is of the opinion that it is in the best interest of the City of Batavia to approve the tentative collective bargaining agreement as negotiated; and

WHEREAS, on April 28, 2014 the AFSCME Union secured the necessary votes to ratify the tentative agreement;

NOW, THEREFORE, BE IT RESOLVED, that the City Council President be and is hereby authorized and directed to execute said collective bargaining agreement.

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

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#43-2014
RESOLUTION TRANSFERRING \$63,100 FROM THE CONTINGENCY BUDGET TO
AMEND THE 2014/2015 BUDGET DUE TO AFSCME CONTRACT SETTLEMENT

Motion of Councilperson Doeringer

WHEREAS, on May 12, 2014 the City Council and AFSCME union mutually agreed to the terms of a collective bargaining agreement;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the City Manager is hereby authorized to make the following budget transfers to account for the expenditure increase due to the collective bargaining agreement with AFSCME in the General, Water and Wastewater Funds:

Effective May 12, 2014, the following transfers are hereby approved:

Increasing expenditure accounts:

City Facilities	001.1620.0100	\$ 2,480.00
	001.1620.0801	\$ 510.00
	001.1620.0802	\$ 190.00
Street Maintenance	001.5110.0100	\$ 15,220.00
	001.5110.0801	\$ 2,720.00
	001.5110.0802	\$ 1,160.00
Garage	001.5132.0100	\$ (13,710.00)
	001.5132.0801	\$ (2,750.00)
	001.5132.0802	\$ (1,040.00)
Snow Removal	001.5142.0100	\$ 8,300.00
	001.5142.0801	\$ 1,480.00
	001.5142.0802	\$ 630.00
Street Lights	001.5182.0100	\$ 1,060.00
	001.5182.0801	\$ 190.00
	001.5182.0802	\$ 90.00
Parks	001.7110.0100	\$ 22,830.00
	001.7110.0801	\$ 4,080.00
	001.7110.0802	\$ 1,740.00
Celebrations	001.7550.0100	\$ 350.00
	001.7550.0801	\$ 60.00
	001.7550.0802	\$ 30.00
Storm Sewer	001.8140.0100.5010	\$ 7,610.00
	001.8140.0100.8310	\$ 420.00
	001.8140.0801	\$ 1,440.00
	001.8140.0802	\$ 620.00
Street Cleaning	001.8170.0100	\$ 5,880.00
	001.8170.0801	\$ 1,060.00
	001.8170.0802	\$ 450.00
Water Administration	002.8310.0100	\$ (760.00)
	002.8310.0801	\$ (150.00)
	002.8310.0802	\$ (60.00)
Pump Station	002.8320.0100	\$ 23,270.00
	002.8320.0801	\$ 4,540.00
	002.8320.0802	\$ 1,780.00
Water Distribution	002.8340.0100	\$ 11,980.00
	002.8340.0801	\$ 2,480.00
	002.8340.0802	\$ 920.00
Wastewater Administration	003.8110.0100	\$ (760.00)
	003.8110.0801	\$ (150.00)
	003.8110.0802	\$ (60.00)
Sanitary Sewers	003.8120.0100.5010	\$ 9,000.00
	003.8120.0100.8310	\$ 4,860.00
	003.8120.0801	\$ 2,630.00
	003.8120.0802	\$ 1,060.00
Wastewater Treatment	003.8130.0100	\$ 11,250.00

003.8130.0801 \$ 1,990.00
003.8130.0802 \$ 860.00

Decrease expenditure account:

Contingency 001.1990.0500 \$ 63,100.00

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

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#44-2014

**RESOLUTION INTRODUCING A LOCAL LAW AMENDING SECTION § 1-4 WARDS,
OF THE CITY CHARTER OF THE CITY OF BATAVIA**

Motion of Councilperson Christian

BE IT RESOLVED, that Local Law No. 2 of the Year 2014 entitled “**A LOCAL LAW AMENDING SECTION § 1-4 WARDS, OF THE CITY CHARTER OF THE CITY OF BATAVIA**” be introduced before the City Council of Batavia, New York; and

BE IT FURTHER RESOLVED, that copies of the aforesaid proposed Local Law be laid upon the desk of each member of the City Council by the City Clerk; and

BE IT FURTHER RESOLVED, that the City Council hold a public hearing on said proposed Local Law in the Council Board Room, Second Floor, One Batavia City Centre, Batavia, New York, at 7:00 p.m. on Tuesday, May 27, 2014; and

BE IT FURTHER RESOLVED, that the City Clerk publish or caused to be published a public notice in the official newspaper of the City of said public hearing at least three (3) days prior thereto.

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

**LOCAL LAW NO. 2 OF THE YEAR 2014
CITY OF BATAVIA**

**A LOCAL LAW AMENDING SECTION § 1-4 WARDS, OF THE CITY CHARTER OF
THE CITY OF BATAVIA**

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

Section 1. § 1.4 Wards

Wards of the City of Batavia are hereby established as follows:

WARD #1 — Bordered on the south by East Main Street; on the west by Vine Street to Bank Street and then Bank Street to the City line; on the north and east by the City line.

WARD #2 — Bordered on the east by Vine Street, to Bank Street and then Bank Street to the City line; on the south by Main Street; on the west by Bank Street to ~~North~~ [Denio] Street and then ~~North~~ [Denio] Street to State Street and then State Street to the City line; on the north by the City line.

WARD #3 — Bordered on the east by Bank Street to ~~North~~ [Denio] Street and then ~~North~~ [Denio] Street to State Street and then State Street to the City line; on the south by Main Street; on the west by Oak Street; on the north by the City line.

WARD #4 — Bordered on the east by Oak Street [to La Crosse Avenue and then La Crosse Avenue to Montclair Avenue; and Montclair Avenue to West Main Street]; on the south by West Main Street to South Lyon Street and then South Lyon Street to South Main Street; South Main Street to Roosevelt Avenue, and then Roosevelt Avenue to Pearl Street; Pearl Street to the City line; on the west and north by the City line.

WARD #5 — Bordered on the east by Liberty Street to South Liberty Street and then South Liberty and a straight line continuation of South Liberty south to the City line; on the south by the City line; on the west by Pearl Street to Roosevelt Avenue and then Roosevelt Avenue to South Main Street and South Main Street to South Lyon Street to West Main Street; on the north by West Main Street to [Montclair Avenue and then Montclair Avenue to La Crosse Avenue and La Crosse Avenue to Oak Street; Oak Street to] Main Street and then Main Street to Liberty Street.

WARD #6 — Bordered on the east and south by the City line; on the west by Liberty to South Liberty Street and then South Liberty Street and a straight line continuation of South Liberty Street to the City line; on the north by East Main Street to the City line.

Section 2. This Local Law, as proposed, shall become effective pursuant to the provision of the Municipal Home Rule Law. It shall further become effective, only if submitted as a proposition and approved by referendum, at the next general election.

Section 3. This Local Law shall take effect for elections held after January 1, 2015.

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

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#45-2014

**RESOLUTION TO SCHEDULE A PUBLIC HEARING ON THE STEP II
NOMINATION STUDY FOR THE BROWNFIELD OPPORTUNITY AREA PLAN**

Motion of Councilperson Canale

WHEREAS, it is the desire of the City Council to accept a Step II Brownfield Opportunity Area Nomination Study; and

WHEREAS, the process to accept the Step II Nomination Study involves holding a public hearing encouraging public participation prior to City Council accepting the plan to provide residents with information about the proposed Step II Nomination Study for the Brownfield Opportunity Area Plan;

NOW THEREFORE, BE IT RESOLVED, that the City of Batavia will hold a Public Hearing on the Brownfield Opportunity Area Step II Nomination Study at City Hall, One Batavia City Centre, Board Room, Batavia, New York at 7:00 p.m. on Tuesday, May 27, 2014; and

BE IT FURTHER RESOLVED, that the City Clerk publish or cause to be published a Public Hearing notice in the official newspaper of the City of said Public Hearings at least three days prior thereto.

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

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MOTION TO ENTER EXECUTIVE SESSION

Motion of Councilperson Pacino

WHEREAS, Article 7, Section 105(1)(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 Doeringer and on roll call approved 8-0.

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Meeting adjourned at 7:35 PM.

Respectfully submitted,

**Heidi J. Parker
Clerk-Treasurer**