

CITY OF BATAVIA BUSINESS MINUTES NOVEMBER 10, 2014

The regular business meeting of the City Council was held Monday, November 10, 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, Briggs, Jankowski, Doeringer, Deleo and Christian.

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

The minutes from the October 2014 meetings were approved.

The Council President assigned the regular agenda items.

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Communications

None

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Council President's Report

Council President Hawley announced that the next regular City Council Conference Meeting would be held on Monday, November 24, 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 across the board but there was nothing specific to report at that time.

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City Manager's Report

Mr. Molino noted that the Centennial Celebration's upcoming New Year's Eve Event, Dress the Decades, was being held at City Hall, with doors opening at 8:30 PM. He indicated that

tickets were \$50 per person or \$100 per couple with a limit of 200 tickets. He also noted that tickets may be purchased at the City Manager's Office.

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Committee Reports

None

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Public Comments

Richard Richmond, 20 Washington Ave., indicated that he had received a Code Violation Notice for the ornamental tree at his residence, as a branch from the tree had extended over the City's sidewalk. He said that he was given 7 days to correct the violation or face further action by the City. He then asked Council why citizens must respond within 7 days while the Mancuso building on Swan Street was able to remain in such poor condition with multiple Code Violations after 4 years.

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Council Responses to Public Comments

Councilperson Jankowski indicated that he thought the Mancuso building on Swan Street had received a deadline of November 6 to respond to the Code Violation notices. Councilperson Doeringer asked if the City had cited the Mancuso property. City Manager, Jason Molino, indicated that the site had received Code Violation notices. Councilperson Canale said that he had driven by the site and that the burned out part was gone and the area behind had been cleaned up. There was additional discussion regarding Code Violation notices remaining in the property files indefinitely, and that the notices might cause problems when owners were looking to sell. Councilperson Jankowski indicated that such a case had occurred when a property manager had tried to purchase a property from the City's Foreclosure Sale and suggested that they might expire. City Attorney, George VanNest, indicated that the Code Violation notices should be available for Council to review with respect to past history as Council at its discretion can decline to sell property to any individual or business which the City may determine does not qualify as a responsible property owner.

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Unfinished Business

None.

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New Business

#82-2014

RESOLUTION TO APPOINT MEMBERS TO THE POLICE FACILITY TASK FORCE

Motion of Councilperson Pacino

WHEREAS, on September 22, 2014 the City Council was presented the Police Department Facility Feasibility Study (“Study”) which was completed by City staff and Geddis Architects (“Facilitators”); and

WHEREAS, the Study included a space needs assessment that examined seven (7) alternatives for making improvements to the Police Department facilities; and

WHEREAS, the City Council is desirous of creating an advisory Police Facility Task Force (“Task Force”) comprised of residents and business leaders to review the alternatives and make a recommendation to City Council; and

WHEREAS, the Task Force is advisory only and can only make a recommendation to the City Council and City Council shall retain all decision making authority; and

WHEREAS, the duties of Task Force should be as follows:

1. Meet as a Task Force and review the Study to include a critical appraisal of the possible alternatives suggested.
2. To review the methodology of developing the specific functional program for the Batavia Police Department.
3. To discuss, investigate and visit the potential site locations; to include tours of the existing facility.
4. To review the cost estimate methodology, costs for each alternative, discuss un-anticipated cost areas and contingencies and possible funding sources.
5. Select an alternative for City staff to complete a financial analysis of the alternative, demonstrating the potential tax, budget and debt impacts based on the available information.
6. Every other month the Task Force shall provide a progress report to the City Council President who will promptly share the progress report with City Council.

7. The City Manager and staff shall provide support to the Task Force and shall attend meetings as requested by the Facilitators and Task Force.
8. Make a recommendation to City Council no later than July 1, 2015. The recommendation will include the financial analysis of the selected alternative and any conditions or suggestions for the City Council to consider.

NOW THEREFORE, BE IT RESOVLED, the Council of the City of Batavia does hereby appoint the aforementioned residents to serve on the Police Facility Task Force:

- a.i. Ward 1 representative
- a.ii. Ward 2 representative
- a.iii. Ward 3 representative
- a.iv. Ward 4 representative
- a.v. Ward 5 representative
- a.vi. Ward 6 representative
- a.vii. BID representative
- a.viii. Chamber of Commerce representative
- a.ix. Resident representative with financial background

BE IT FURTHER RESOLVED, that the Police Chief is hereby appointed to serve on the Task Force as an Ex-officio non-voting capacity.

Motion by Councilperson Doeringer to table Resolution seconded by Councilperson Jankowski and on roll call approved unanimously.

Discussion – Councilperson Doeringer indicated that all positions but one had been accounted for. He noted that everything would be ready to go for the next Council meeting.

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#83-2014

RESOLUTION TO ADOPT LOCAL LAW NO. 3 OF 2014 ENTITLED “LOCAL LAW TO AMEND THE CODE OF THE CITY OF BATAVIA BY ADDING CHAPTER 18 – BEST VALUE”

Motion of Councilperson Briggs

WHEREAS, The State Legislature and Governor amended General Municipal Law, §103 on November 13, 2013 to provide local governments greater flexibility in awarding contracts by authorizing the award of purchase contracts (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract pursuant to Article eight of the Labor Law) which may now be awarded on the basis of low bid or best value. The State

legislation requires political subdivisions with a population of less than one million to pass a local law authorizing the use of the best value award process; and

WHEREAS, “Best value” means the basis for awarding contracts for services to the offeror which optimizes quality, cost and efficiency, among responsive and responsible offerors. Such basis shall reflect, wherever possible, objective and quantifiable analysis; and

WHEREAS, the basis of the award, the determination of the evaluation criteria, the process to be used in the determination of best value and the manner in which the evaluation process and selection shall be conducted shall be documented in the procurement record and in advance of the initial receipt of offers and shall be quantifiable whenever possible. Where appropriate, the solicitation shall identify the relative importance and/or weight of cost and the overall technical criterion identified in the bid to be considered by the City of Batavia in its determination of best value; and

WHEREAS, the City Manager shall develop procedures that will govern the award of contracts on the basis of best value. These procedures shall be included in the City of Batavia’s Purchasing Manual and reviewed by the Council of the City of Batavia in conjunction with its annual review and approval of the Purchasing Manual; 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 October 27, 2014 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 2014 Entitled **Chapter 18 – Best Value To Authorize The Use Of Best Value, For Purchase Contracts (Including Contracts For Service Work, But Excluding Any Purchase Contracts Necessary For The Completion Of A Public Works Contract Pursuant To Article Eight Of The Labor Law) May Be Awarded On The Basis Of Low Bid Or Best Value, As Authorized In Section 103 Of The General Municipal Law And As Defined In Section One Hundred Sixty-Three Of The State Finance Law** 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 unanimously.

**LOCAL LAW NO. 3 OF THE YEAR 2014
CITY OF BATAVIA**

A LOCAL LAW TO AMEND THE CODE OF THE CITY OF BATAVIA BY ADDING CHAPTER 18 – BEST VALUE TO AUTHORIZE THE USE OF BEST VALUE, FOR PURCHASE CONTRACTS (INCLUDING CONTRACTS FOR SERVICE WORK, BUT EXCLUDING ANY PURCHASE CONTRACTS NECESSARY FOR THE COMPLETION OF A PUBLIC WORKS CONTRACT PURSUANT TO ARTICLE EIGHT OF THE LABOR LAW) MAY BE AWARDED ON THE BASIS OF LOW BID OR BEST VALUE, AS AUTHORIZED IN SECTION 103 OF THE GENERAL MUNICIPAL LAW AND AS

DEFINED IN SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW

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

§18-1. Title and authority

- B. This chapter shall be known and may be cited as “Best Value”.
- C. The City of Batavia, under the authority of §103 of the General Municipal Law and as defined in section one hundred sixty-three of the State Finance Law, hereby enacts this chapter.

§18-2. Declaration of Intent

- A. The intent of this Local Law shall be to authorize the use of Best Value criteria when awarding purchase and service contracts consistent with Section 103 of the General Municipal Law and Section 163 of the New York State Finance Law. Use of best value criteria is intended to provide the City of Batavia greater flexibility in awarding contracts and ensure that the City of Batavia obtains the highest quality goods and services at a low cost. Awarding contracts on the basis of Best Value standards is further intended to promote competition, foster fairness among vendors and competitors, expedite contract awards, optimize quality, control costs and enhance efficiency among responsive and responsible offerors.

§18-3. Definitions

- A. Purchase Contracts – Contracts for goods, commodities and equipment, including technology.
- B. Public Works Contracts – Contracts for items or projects involving primarily labor or both material and labor where labor is the major portion of the contract.
- C. Best Value – The basis for awarding contracts for services to the offeror which optimizes quality, cost and efficiency, among responsive and responsible offerors. Such basis shall reflect, wherever possible, objective and quantifiable analysis. Such basis may also identify a quantitative factor for offerors that are small businesses or certified minority or women-owned business enterprises as defined in Executive Law Section 310 (1), (7), (15) and (20) and as may be amended.
- D. Procurement record – Purchasing documents such as requisition, purchase order, and competitive bid, etc.
- E. Responsive and responsible offeror – A responsive offeror is an offeror meeting the minimum specifications. In assessing whether an offeror is responsible, the City of Batavia should consider an offeror’s capacity and financial ability to complete the contract, accountability, past performance, reliability and integrity per State Finance Law, section 163 (l)(c) and (l)(d).

§18-4. Requirements

- A. Where the basis for award is the best value offer, the procurement record shall include documentation, in advance of the initial receipt of offers, the evaluation criteria, which whenever possible, shall be quantifiable, and the process to be used in the determination of best value and the manner in which the evaluation process (rating of proposals) and selection shall be conducted.
- B. The solicitation shall identify the relative importance and/or weight of cost and the overall technical criterion to be considered by the City of Batavia in its determination of best value.
- C. Best Value is also an approved award basis for contracts to be piggybacked.
- D. Procedures that govern the award of contracts on the basis of best value shall be included in the City of Batavia's Purchasing Manual and reviewed annually by the Council of the City of Batavia in conjunction with its annual review and approval of the Purchasing Manual, consistent with General Municipal Law, section 104-b(2)(f).

§18-5. Severability

If any section or subsection, clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court or competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the section or subsection, clause, sentence, paragraph, subdivision or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

§18-6. Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State.

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#84-2014

**RESOLUTION TO SCHEDULE A PUBLIC HEARING REGARDING THE CABLE
FRANCHISE RENEWAL FOR THE CITY OF BATAVIA**

Motion of Councilperson Christian

WHEREAS, pursuant to Section 626 of the Federal Cable Act, which sets forth the process for franchise renewal, the City's current franchise with Time Warner Cable has expired, and the City is beginning the process of renewing the franchise; and

WHEREAS, a public hearing is part of the preliminary portion of franchise renewal in which the City reviews the cable operator's past performance and identifies the City's future cable-related community needs; and

WHEREAS, residents are invited to attend the hearing to assist the City in prioritizing community needs;

NOW, THEREFORE, BE IT RESOLVED, that the City of Batavia will hold a Public Hearing on the City's cable franchise renewal at City Hall, One Batavia City Centre, Board Room, Batavia, NY at 7:00 p.m. on Wednesday, November 19, 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 Cipollone and on roll call approved unanimously.

Discussion - Councilperson Canale asked if the franchise renewal was for Time Warner only. City Manager, Jason Molino, indicated that it was for anyone.

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#85-2014

**RESOLUTION TO APPOINT MEMBERS TO VARIOUS CITY COMMITTEES/
BOARDS**

Motion of Councilperson Deleo

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:

Board of Assessment Review

Lois Gerace

September 30, 2019

Seconded by Councilperson Briggs and on roll call approved unanimously.

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#86-2014

**RESOLUTION TO AMEND THE BUDGET BY TRANSFERRING FUNDS FROM
THE CONTINGENCY BUDGET**

Motion by Councilperson Briggs

WHEREAS, the City of Batavia has experienced an increase in tax foreclosures thereby increasing tax foreclosure expenses over and above the adopted budget; and

WHEREAS, the City of Batavia has experienced an increase in litigation expenses; and

WHEREAS, the City of Batavia has experienced an increase in unemployment compensation expenses.

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:

Effective November 10, 2014, the following transfer is hereby approved:

Increasing accounts:

Tax Foreclosure expense	001.1325.0472	\$ 10,000.00
Legal fees	001.1420.0437	\$ 30,000.00
Unemployment Compensation	001.1430.0454	\$ 20,000.00

Decreasing account:

Contingency	001.1990.0500	\$ 60,000.00
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Seconded by Councilperson Deleo and on roll call approved unanimously.

Discussion – Councilperson Jankowski asked if the \$60,000 was an exact amount needed to cover expenditures for the year. City Manager, Jason Molino, indicated that the amount was to cover expenditures within the 6 month budget projections. Councilperson Jankowski asked how the City was so far off. Jason Molino noted that the increased volume in litigation cases, code violations, foreclosures, and foil requests directly contributed to the shortfall. He also noted that the City had had two personnel terminations this year.

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Meeting adjourned at 7:30 PM.

Respectfully submitted,

**Aimslee M. Cassidy
Deputy Clerk-Treasurer**