

**CITY OF BATAVIA  
BUSINESS MINUTES  
MAY 11, 2015**

The regular business meeting of the City Council was held Monday, May 11, 2015 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, Briggs, Canale, Doeringer, Cipollone, Jankowski, Deleo, and Christian.

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

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

The Council President assigned the regular agenda items.

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**Communications**

Sunny's Restaurant & Lounge submitted a liquor license application. There was no objection from the police department. Council approved.

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**Council President's Report**

Council President Hawley announced that the next regular City Council Conference Meeting would be held on Tuesday, May 26, 2015 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 was absent so a representative from his office attended in his place. There was no report for the meeting.

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## City Manager's Report

Mr. Molino noted that he had spoken with legal counsel for Senator Ranzenhoffer's office and that the gap financing exemption bill had been drafted and would be for cities with populations between 15,000 – 16,000. He explained that by including cities of that size, it would include the option for counties and school districts to execute the exemptions without having to do a home rule request themselves. He noted he would follow up later in the week to see if the bill had been introduced.

Mrs. Difante provided an update on the community cats situation and gave Council a written review of what had been done to date as well as future plans. She noted that she considered expanding the focus county-wide and working with the County on the issue. Mrs. Difante met with the County Manager who agreed that it was a county-wide problem and thus they met with and elicited the support of the County Public Health Director and Animal Control. She explained that she wanted to create a task force with essential members who could analyze options for dealing with community cats and offer recommendations to Council in August. Mrs. Difante suggested having a member of the pro-bono group that presented in March on the task force so they could provide free legal advice. Councilperson Jankowski was concerned that the pro-bono representative would only push for releasing the newly fixed cats and residents would like to explore other options. Mrs. Difante noted that they did provide free legal advice and most people's concerns surrounded public health so the other task force members would be a good balance to the legal members. Councilperson Christian thought that the City Code limited the number of dogs people could have and thought maybe cats could be limited as well. She noted that she would like the task force implemented as soon as possible and hoped her colleagues would support moving forward with the committee. Councilperson Briggs asked Councilperson Jankowski if the people he spoke with that didn't want the cats released back into the neighborhoods had suggested alternatives. Councilperson Jankowski noted that they did and suggested euthanizing the hurt or sick cats and trying to adopt out the younger cats. Mr. Molino noted that Mrs. Difante would continue to work with the parties at hand and come up with recommendations for Council and that the goal was to have the group enforce the program and not have it be administered only by the City. Councilperson Jankowski noted that there were already some people doing their own thing and suggested having them stand by so everyone could be working in the same direction. Councilperson Pacino asked if the pro-bono group would help secure financing. Mrs. Difante noted that they would focus on legal advice and that models they had seen had empowered citizens to try to get grants and other funding so that it wasn't something the City would have to pay for.

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## **Committee Reports**

Councilperson Cipollone noted that the youth board had a dinner at Terry Hills that recognized about 16 youth and highlighted their volunteer efforts. He said it was great to see and felt the parents should be commended for raising kids who were willing to volunteer their time. He also noted that Jocelyn Sikora and Toni Funke did a great job pulling it all together.

Councilperson Christian stated that there was a Women's Build at 27 Oak St on May 9<sup>th</sup> for Habitat for Humanity and that a lot of awards were given out to the almost 60 women who helped. She noted that it was an incredible day and amazing to see them work.

Councilperson Pacino told Council to get their walking boots on and meet in the Aldi's plaza at 9:30am in two weeks to march in the Memorial Day parade. She hoped they could all make it.

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## **Public Comments**

Gregg Bruggman, 61 Walnut St, noted that he was a part-time disability rights advocate for Independent Living and wanted to publicly thank Council for creating the committee for persons with disabilities that they would be voting on that night. He asked for suggestions of possible committee members.

Dave Steele, 44 Vernon Ave, gave packets to Council and noted that he was representing Vernon Ave residents regarding the proposed Arby's at the corner of Vernon Ave and Main St. He noted that Council had the responsibility to ensure the quality of life of its residents even though the planning board had the responsibility of handling proposed development matters such as the new Arby's location. He noted that residents planned to attend planning and zoning meetings as well to have their voice heard. He explained that 95% of the addresses on Vernon Ave were represented on a signed petition opposing the developer's plan as presented. He noted that Mr. Molino and Mr. McGinnis did not sign the petition as it may be a potential conflict of interest with Mr. Molino as City Manager and Mr. McGinnis on the planning board. He noted several reasons why the proposed plan was opposed including increased noise, 24-hour lighting, destruction of trees, increased traffic, increased littering and decrease in home values. He noted that several residents felt they would have to put their homes up for sale if the plan went through.

John Macauley, 7 Vernon Ave, noted that he recently moved from the Buffalo area to Batavia and was told that Vernon was a quiet street. He put around \$10,000 into his home so far but noted that Arby's wasn't what the residents wanted in a residential area and they would fight it. He noted that he would probably move if the development continued.

Susan Michalak, 17 Warren St, noted that when she moved into her home about 14 years ago there were no rentals on her street and now there were two. She noted that one of the

properties hadn't mowed their lawn at all, code enforcement had been called and it was just a repeat of the prior year. She also felt that landlords should have to put up some sort of storage unit so renters had a place to store their items like bikes and lawnmowers. She noted there was already a mess at the rental property and it was only May. She also felt that no one would want to buy a house that was next to the rentals so their property values were affected by them. She was concerned that not meeting until June about the feral cats would mean another summer of the community cats and that she had counted at least 12 when crossing the road the other day and could smell their odor. She suggested trying to address the issue as soon as possible. Ms. Michalak asked if she was allowed to trap a cat if it was on her property.

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

Councilperson Canale noted that he would like to get a copy of Mr. Steele's presentation because he wanted to hear the rest of what he had to say before he reached his time limit.

Councilperson Christian noted that if the cats were on your property then you could trap them.

Councilperson Pacino stated that she was behind the Vernon Ave residents with regards to the opposition of Arby's because her and her husband both grew up in that neighborhood. She also noted that she and Councilperson Briggs had mentioned previously that they would like to be on the Independent Living committee.

Councilperson Briggs noted that she had spoken with Mr. Molino about people not mowing their lawns and asked him to explain the process. Mr. Molino explained that a notice gets placed on the door of the property and also sent to the owner noting they have 48 hours to correct the violation but there was nothing else they could do but site them for the violation. He noted they could then correct the problem or the City would correct it and charge for the service plus an administration fee. Councilperson Jankowski noted that the letter may take longer than 48 hours to reach them by mail so by the time they got the notice they wouldn't have time to rectify the problem themselves. He asked if, with today's technology, there was a way the owner could be notified more timely like via text or e-mail to give them time to correct the problem so it didn't count against them if they wanted to buy property from the City in the future. He noted that some tenants weren't real cooperative and may not let the owner know of the notice on the door. Mr. Molino stated that the owner needed to have a good line of communication with the tenant and be responsible for their property. He didn't want to be chasing owners to notify them of their violations. Councilperson Jankowski felt it would be a way to help out landlords who wanted to be helpful and cooperative. Councilperson Christian felt the system worked really well and if some landlords wanted to destroy our neighborhoods then we were coming after them. She felt they needed to be responsible for their tenants. Councilperson Briggs didn't want to hear their excuses and felt the landlords were responsible for keeping up their property.

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**Unfinished Business**

Councilperson Christian asked that trees be planted on Ellicott St by the right-of-way to enhance the other improvements made on that street.

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**New Business**

**#37-2015**

**RESOLUTION TRANSFERRING FROM THE EMPLOYEE BENEFIT ACCRUED LIABILITY RESERVE AND TO AMEND THE BUDGET**

**Motion by Councilperson Deleo**

**WHEREAS**, pursuant to General Municipal Law 6-p, the City of Batavia has an established Employee Benefit Accrued Liability Reserve fund for payment of accrued benefits due to employees upon termination of the employees' service; and

**WHEREAS**, the City of Batavia for the fiscal year ending March 31, 2015 has approximately \$101,030 of Employee Benefit Accrued Liability Reserve; and

**WHEREAS**, the City of Batavia for the fiscal year ending March 31, 2015 will have had employee retirements/terminations from employment with payable accrued employee benefits totaling \$72,818.91; and

**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 March 31, 2015, the following transfers are hereby approved:

Increasing expenditure accounts:

Police Department	001.3120.0100	\$ 4,971.20
	001.3120.0101	\$ 541.98
	001.3120.0102	\$ 1,776.70
	001.3120.0103	\$ 2,634.24
Fire Department	001.3410.0100	\$44,847.03
	001.3410.0101	\$ 2,145.18
	001.3410.0102	\$ 1,320.11
	001.3410.0103	\$ 386.99
	001.3410.0104	\$ 615.82

Bureau of Maintenance	001.5142.0103	\$ 720.63
	001.7110.0103	\$ 513.06
	001.7550.0103	\$ 7.77
	001.8140.0103	\$ 660.58
	001.8170.0103	\$ 132.15
	003.8120.0103	\$ 202.12
Street Maintenance	001.5110.0100	\$ 6,324.42
	001.5110.0103	\$ 1,321.15
	001.7110.0101	\$ 1,468.67
	001.7550.0101	\$ 22.25
	001.8170.0101	\$ 378.29
	003.8120.0101	\$ 578.57
Medical Insurance – In Lieu of	001.9060.0807	\$ 1,087.50
	003.9060.0807	\$ 162.50

Increasing revenue account:

Appropriated Employee Benefit Accrued Liability Reserve	001.0001.0511.2109	\$72,818.91
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**Seconded by Councilperson Briggs and on roll call approved 9-0.**

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### # 38-2015

## A RESOLUTION TO CLOSE-OUT CAPITAL PROJECTS

### Motion of Councilperson Christian

**WHEREAS**, The City of Batavia should periodically close capital projects which are completed; and

**WHEREAS**, projects completed at this time that require official closing are listed as follows:

- #1301 Richmond Avenue Road and Sidewalk Construction
- #1401 Salt Barn
- #1402 South Jackson Street and Otis Street Multi-Modal Improvements; and

**WHEREAS**, the City Council concurs with this list and directs to close out the specified capital project effective March 31, 2015; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Batavia that the projects listed above be closed.

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

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**#39-2015  
RESOLUTION TO DISCONTINUE THE PUBLIC USE AND TO AUTHORIZE THE  
COUNCIL PRESIDENT TO SIGN AGREEMENTS FOR THE SALE OF THE  
PROPERTIES SOLD AT AUCTION ON MARCH 14, 2015**

**Motion of Councilperson Canale**

**WHEREAS**, the City foreclosed on 214 Ellicott St, 159 Bank St, 33 Clinton St, 42 N Lyon St, 54 Oak St, 210 Ross St, 141 Liberty St, 214 S Swan St, Batavia City Centre Hallway, and South Main St for non-payment of property taxes; and

**WHEREAS**, ads were placed in the Batavia Daily News and documentation was sent to Bontrager Real Estate & Auction Service, Inc. regarding the properties; and

**WHEREAS**, a Public Real Estate Auction was held at Bontrager's Auction Center on March 14, 2015 at 10:00 a.m.; and

**WHEREAS**, the highest bids received for the auctioned properties are as follows:

Property	Highest Bidder	Highest Bid
1) 159 Bank Street	Jeffrey Freeman	\$24,000
2) 33 Clinton Street	Scott Mase	\$39,000
3) 42 N Lyon Street	RGH Realty	\$23,000
4) 54 Oak Street	RGH Realty	\$21,000
5) 210 Ross St	Jeffrey D Freeman	\$38,000
6) 141 Liberty St	Terance L Cranston	\$ 700
7) 214 S Swan St	Jeffrey D Freeman	\$28,000
8) Batavia City Centre	Peycol Properties	\$ 600
9) South Main St	Mary K Longhini	\$ 1,100

**NOW THEREFORE, BE IT RESOLVED**, by the Council of the City of Batavia, that it discontinues the public use of said properties and authorizes the City Council President to sign all necessary and appropriate closing documents, including Quit Claim deeds, to convey the property to the highest bidders for all three properties, subject to purchasers' execution of Contracts of Sale that are satisfactory to the City Attorney's Office.

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

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**#40-2015**

**A RESOLUTION IN SUPPORT OF INDEPENDENT LIVING OF GENESEE REGION ESTABLISHING THE GENESEE REGION ADVISORY COMMITTEE FOR PERSONS WITH DISABILITIES**

**Motion of Councilperson Briggs**

**WHEREAS**, Independent Living of Genesee Region (“Independent Living”) is a multi-cultural, grassroots, peer directed, civil rights organization that provides a full range of assistance, programs and services to enhance the quality of life for all individuals with disabilities. Independent Living assists persons with disabilities to realize their life choices through information and referral, independent living skills, community and systems advocacy and peer counseling; and

**WHEREAS**, the City of Batavia recognizes that the people with disabilities are part of the diversity of our community; and

**WHEREAS**, Independent Living is desirous of establishing a *Genesee Region Advisory Committee for Persons with Disabilities* charged with meeting as necessary to discuss and deliberate issues relevant to persons with disabilities living within the Genesee County region; and

**WHEREAS**, the *Genesee Region Advisory Committee for Persons with Disabilities* is to be composed of individuals such as, but not limited to, persons with disabilities, parents of children with disabilities, local social service agencies and representatives from local municipalities and agencies; and

**NOW THEREFORE BE IT RESOLVED**, that the City Council of the City of Batavia hereby supports Independent Living's efforts to establish a *Genesee Region Advisory Committee for Persons with Disabilities*; and

**BE IT FURTHER RESOLVED**, that the City of Batavia shall have a representative attend said committee meetings on behalf of the City.

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

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**#41-2015**

**RESOLUTION REQUESTING THAT THE CITY OF BATAVIA PLANNING AND DEVELOPMENT COMMITTEE PREPARE AN UPDATED COMPREHENSIVE MASTER PLAN**

**Motion of Councilperson Cipollone**

**WHEREAS**, under the City Charter § 13-3 the City Planning and Development Committee shall have such powers and duties including but not limited to developing a plan to maximize the

property use of public and private lands as outlined in the Comprehensive Plan of the City and to provide such advise as to assist the City Council in developing a strategy that interprets, plans and leads in the implementation of the land use components of the Comprehensive Plan of the City; and

**WHEREAS**, General City Law Section 27 and 28-a also provide planning boards with authority to recommend proposed changes or amendments to comprehensive plans;

**WHEREAS**, the City of Batavia Comprehensive Master Plan was last updated on or around February 1997; and

**WHEREAS**, an updated comprehensive plan provides clear rationale for land use decisions, establishes objectives that the City wants to achieve and identifies zoning law amendments that may be adopted to achieve those objectives; and

**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of Batavia hereby requests that the City Planning and Development Committee prepare an updated comprehensive plan; and

**BE IT FURTHER RESOLVED**, that City staff assist the City Planning and Development Committee with preparing the updated Comprehensive Plan to include activities such as but not limited to, seeking proposals for and review and recommendation to City Council of a planning consultant to lead the planning process, data collection and analysis, community engagement and any additional activities related to and necessary for preparing an updated Comprehensive Plan; and

**BE IT FURTHER RESOLVED**, that this initiative was identified in the City’s Strategic Plan in achieving Key Intended Outcome’s identified under the Well-Managed City strategic priority.

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

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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...”;and

**WHERAS**, legal counsel for the City will have an attorney-client privileged communication that is exempt from the Open Meetings Law; and

**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 Deleo and on roll call approved 9-0.**

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**Meeting adjourned at 8:05 PM.**

**Respectfully submitted,**

**Heidi J. Parker  
Clerk-Treasurer**