

CITY OF BATAVIA BUSINESS MINUTES JULY 13, 2015

The regular business meeting of the City Council was held Monday, July 13, 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. Council President Hawley led the Lord's Prayer and the Pledge of Allegiance.

The minutes from the June meetings and draft monthly financial statements from May were approved.

The Council President assigned the regular agenda items.

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Communications

Northside Deli, LLC submitted their liquor license renewal. There were no objections from the police department. Council approved.

The Batavia Business Improvement District submitted their application for Summer in the City on Saturday, August 15th from 11:00am – 9:00pm in various parking lots and streets downtown. Council approved.

The Batavia Police Department requested to hold National Night Out on Tuesday, August 4th from 6:00 – 8:00pm at Birchwood Village. Council approved.

Community Action of Orleans and Genesee requested to hold a children's carnival on Friday, August 21st from 10:00am – 2:00pm in Austin Park. Council approved.

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Council President's Report

Council President Hawley announced that the next regular City Council Business Meeting would be held on Monday, August 10, 2015 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 were working on a variety of legal matter but there was nothing specific to report.

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City Manager's Report

Julie Pacatte, Batavia Development Corporation (BDC), briefed Council on how BDC did last year and noted that a request for proposal (RFP) was recently released by them for property at 40-52 Ellicott St and 56-70 Ellicott St. Mrs. Pacatte reviewed the timeline of how they got to where they were, noted that 40-52 Ellicott St was in the Brownfield Cleanup Program (BCP) in a Brownfield Opportunity Area, and thus there were tax credits available for the potential buyer. She noted that the BDC submitted their application on February 1 and was accepted into the BCP on 5/26/15. She explained that they issued the RFP on 7/6/15, there would be a walk-through of the area at 9am on 7/17/15, and was excited about what was to come from the RFP as this is an area in much need of development.

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Committee Reports

Councilperson Pacino noted that Summer in the City was coming up, she was excited about it and asked Council for their support. She also noted that at the end of July, Don Burkel would be retiring from the Batavia Business Improvement District and his assistant, Laurie Oltremari, was transitioning well.

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Public Comments

Al McGinnis, 16 Vernon Ave, stated that he would rather see the cost for rooming houses be \$100 per unit as he felt that was a more appropriate cost for the time it takes the inspectors. He also noted that most people were currently dissatisfied with their cable company or internet provider and felt there needed to be a big change. He encouraged the City to get the issue with Empire resolved as there needed to be competition with all four vendors.

Lisa Whitehead, 20 Ellsworth Ave, didn't feel a wage increase for the City Manager was feasible at that time and that it should be postponed.

Ken Darch, 35 Hutchins St, stated there was a big concern about disorderly conduct and other criminal acts on Hutchins St and it continued to worsen. He noted there was a large fight there with multiple police units that ended Friday night and started again Saturday morning. He noted that it wasn't a race issue and felt the problems were absent and unaccountable landlords and lax enforcement of the laws. He felt there was enough talk from the police and suggested they started arresting people. He noted there needed to be more than a watchful eye, there was constant drug

activity, and if they couldn't be arrested then their lives should be made more difficult. Mr. Darch explained that Hutchins St had become a sanctuary for sexual offenders and there was unfamiliar traffic on the street. He mentioned property numbers 7, 7 ½, 18, 20, 24, 25, and 54.

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Council Responses to Public Comments

Councilperson Christian noted that the activity had been going on for a long, long time and something had to be done. She asked if they could inform the landlords of the issues at their properties. She noted there needed to be police sitting in that area and take control of the streets. Mr. Van Nest noted that what she was suggesting was problematic and that the illegal activity wasn't being undertaken by the landlords but by the individuals but they could revisit the issue of landlords being more involved. Councilperson Christian noted that there used to be a law allowing landlords to evict without question if there were multiple issues with a tenant. Councilperson Jankowski stated that if illegal acts were going on, they needed to be addressed right there. He asked why there hadn't been arrests but acknowledged he didn't know the entire situation and suggested residents continue calling dispatch when there were problems. Councilperson Pacino noted that there were similar situations in her ward and wanted to see Council start working on the issue with citizens. Councilperson Briggs felt it was put up or shut up time, noted that talk was cheap, and there needed to be action and not just talk about what to do. Councilperson Deleo suggested possibly moving the camera to hot spots or purchase another one because the area couldn't be patrolled every second. Councilperson Christian noted that she and Council President Hawley attended a neighborhood watch meeting in Buffalo a year ago and nothing came of it and they needed to do something. Councilperson Jankowski asked if they could ask the police department about the situation but Assistant Chief Yaeger had been on vacation and couldn't comment.

Councilperson Deleo asked if the Empire negotiations were progressing or if it was another mall situation. Mr. Molino noted they were still in negotiations with Time Warner and Empire.

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Unfinished Business

Councilperson Briggs understood that Council approved applying for a grant for a resource officer and that the City would pay 25% in the fourth year. She felt that City taxpayers would be paying twice because they would be paying the City portion and the amount spent within the school's budget. Mr. Molino noted that the school may be able to get aid to cover the cost and if the City got the award it would be very clear how the position would be paid.

Councilperson Deleo noted that there was a proclamation on Sunday at Little League softball for Louis Smith Sr who had given 35 years of his time to that sport as well as Paul Spitore and he was very proud.

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New Business

**#54-2015
A RESOLUTION TO APPOINT MEMBERS TO THE
AUDIT ADVISORY COMMITTEE**

Motion of Councilperson Briggs

WHEREAS, currently, vacancies exist on Audit Advisory Committee; and

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

<u>Audit Advisory Committee</u>	<u>Term Expiration</u>
Councilperson Pierluigi Cipollone	December 31, 2015
Councilperson John Canale	December 31, 2015
David Leone	December 31, 2015
Marc Staley	December 31, 2015
Nicholas Harris	December 31, 2015

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

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**#55-2015
A RESOLUTION TO DISCONTINUE THE PUBLIC USE AND TO AUTHORIZE THE
COUNCIL PRESIDENT TO SIGN AGREEMENTS FOR THE SALE OF THE
214 ELLICOTT SOLD AT AUCTION ON JUNE 9, 2015**

Motion of Councilperson Canale

WHEREAS, the City foreclosed on 214 Ellicott 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 June 9, 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) 214 Ellicott	MKP Realty	\$1,000

NOW THEREFORE, BE IT RESOLVED, by the City 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 Quit Claim deeds, to convey the property to the highest bidder for the property, subject to purchaser's execution of Contracts of Sale that are satisfactory to the City

Attorney's Office.

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

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#56-2015

A RESOLUTION TO AUTHORIZE BUDGET TRANSFERS AND TRANSFERRING \$2,975 TO THE PARKING LOT CAPITAL RESERVE FUND

Motion of Councilperson Doeringer

WHEREAS, in order to close out the 2014-2015 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 Parking Lot Reserve Fund; and

WHEREAS, the City of Batavia for the fiscal year ending March 31, 2015 received parking and dumpster permit revenue in the amount of \$2,975 and is desirous of transferring said \$2,975 to the Parking Lot Capital Reserve Fund to assist with future replacement and improvements of City parking lots; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia does hereby transfer \$2,975 of parking and dumpster permit revenue to the Parking Lot Capital Reserve Fund; and

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

Effective March 31, 2015, amend the 2014-15 budget by increasing expenditure accounts:

001.3410.0803	207 Supplemental	\$ 10,294.68
001.3410.0100	Fire – Personnel	\$ 19,807.25
002.8340.0100	Water Distribution – Personnel	\$ 1,305.00
002.8340.0474	Water Distribution – Mains	\$ 29,200.00
002.8340.0802	Water Distribution – Social Security	\$ 1,195.00

by decreasing expense account:

001.1990.0500	General Fund Contingency	\$ 30,101.93
002.1990.0500	Water Fund Contingency	\$ 31,700.00

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

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#57-2015
A RESOLUTION TO CLOSE OUT CAPITAL PROJECTS

Motion of Councilperson Pacino

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

WHEREAS, the project completed at this time that requires official closing is listed as follows:

#1302 Tracy Ave and Hart Street Sewer Replacement

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 City Council of the City of Batavia that the projects listed above be closed.

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

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#58-2015
A RESOLUTION TO AMEND THE CITY OF BATAVIA ANNUAL FEE FOR RENEWING A ROOMING HOUSE PERMIT

Motion of Councilperson Christian

WHEREAS, the City of Batavia has established various fees for permits and other services it provides; and

WHEREAS, City Council desires to amend the annual fee for renewing a rooming house permit to compensate for the cost of those permits and related services; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia, that it adopts and sets the annual fee for renewing a rooming house permit at \$150; and

BE IT FURTHER RESOLVED, that said fees become effective immediately.

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

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#59-2015
A RESOLUTION TO AUTHORIZE WAGE ADJUSTMENT FOR THE CITY MANAGER

Motion of Councilperson Cipollone

WHEREAS, the City Council of the City of Batavia wishes to grant a wage adjustment to the City Manager for the current year based on his favorable performance evaluation; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia that the wage of the City Manager is increased by 2.0%, to \$91,272 and be and hereby is enacted and retroactive to April 1, 2015.

Seconded by Councilperson Doeringer and on roll call approved 6-3. Councilpersons Deleo, Jankowski and Briggs voted no.

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#60-2015

A RESOLUTION TO ENTER INTO AN AGREEMENT WITH SUNSHINE CONCRETE CO. INC. FOR CITY SIDEWALK REPLACEMENT PROJECT – 2015 AND TRANSFER \$20,000 FROM THE GENERAL FUND CONTINGENCY BUDGET TO THE SIDEWALK REPAIRS BUDGET

Motion of Councilperson Jankowski

WHEREAS, a project for the replacement of approximately 3,250 square yards of City sidewalks and handicap accessible ramps on portions of Allen Street, Holland Avenue, North Street, Olyn Avenue, and Redfield Parkway was competitively bid on July 7, 2015; and

WHEREAS, a competitive bid was made by Sunshine Concrete Co. Inc., for the replacement of City sidewalks and handicap accessible ramps as specified in the contract document titled City of Batavia Sidewalk Replacement Project - 2015; and

WHEREAS, Sunshine Concrete Co. Inc. is the lowest responsible bidder (\$294,440.00); and

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 Sunshine Concrete Co. Inc. for sidewalk replacements; and

BE IT FUTHER RESOLVED, that the lowest bid was \$20,000 over the expected construction budget of the project in the 2015-16 adopted budget and that the City Council of the City of Batavia authorizes the City Manager to make the following budget amendments to complete the project:

Effective July 13, 2015, amend the 2015-16 budget by increasing expenditure accounts:

001.5410.0401 Supplies & Mat.-Repairs \$20,000.00

by decreasing expense account:

001.1990.0500 General Fund Contingency \$20,000.00

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

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#61-2015

A RESOLUTION AUTHORIZING THE CITY COUNCIL PRESIDENT TO EXECUTE A CONSULTING CONTRACT WITH GAR ASSOCIATES INC. TO PROVIDE ASSESSMENT SERVICES

Motion of Councilperson Deleo

WHEREAS, the City of Batavia is desirous of retaining a company to analyze the status of current property value equity that will meet state requirements for aid reimbursement and create an assessment roll and product that is acceptable to the State, County, City and the public at large; and

WHEREAS, it is recommended the City enter into a three year agreement with two one year renewals with GAR Associates Inc. to provide the abovementioned services due to their knowledge and experience; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia that the Council President is hereby authorized and directed to execute a consulting contract with GAR Associates Inc., for assessment services.

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

Discussion – Councilperson Jankowski asked that Council be reminded when the 3-year contract is up so it can be reviewed and GAR will have an incentive to compete on cost.

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#61A-2015

A RESOLUTION ESTABLISHING THE CITY OF BATAVIA AS LEAD AGENCY UNDER THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (“SEQR”) and DETERMINING SIGNIFICANCE OF AN AMENDMENT TO §190-9, R-2 RESIDENTIAL DISTRICTS OF THE BATAVIA MUNICIPAL CODE TO PROHIBIT NEW APPLICATIONS FOR BOARDINGHOUSE, LODGING HOUSE, ROOMING HOUSE AND TOURIST HOME AS A PERMITTED PRINCIPLE USE

Motion of Councilperson Cipollone

WHEREAS, the City of Batavia has proposed to amend the Batavia Municipal Code §190-9, R-2 Residential Districts; and

WHEREAS, this amendment of the City’s zoning code and allowable uses in the City’s zoning districts is Type I action under SEQR; and

WHEREAS, in accordance with SEQR the City Council of the City of Batavia has declared its intent to act as lead agency for the Action; and

WHEREAS, a Full Environmental Assessment Form has been completed for the Action, a copy of which is attached hereto as Schedule A; and

WHEREAS, the Full Environmental Assessment has been circulated to other interested or involved agencies, namely Genesee County Planning Department on May 7, 2015 and said agency provided comments and recommendation supporting the proposed action on May 14, 2015

WHEREAS, the City Council has carefully reviewed the potential environmental impacts of the proposed action against the criteria set forth in 6 NYCRR 617.7(c) and has taken a hard look at the potential environmental impacts required by SEQR, and

RESOLVED, that the City Council of the City of Batavia in accordance with SEQR and 6 NYCRR 617.6 hereby establishes itself as Lead Agency for the purpose of completing SEQR review of the amendment to the City's Batavia Municipal Code; and it is further

RESOLVED, that the City Council having reviewed a completed Full Environmental Assessment Form and accompanying narrative which is part of the record of this Action and having considered the environmental impacts of the proposed action against the criteria in 6 NYCRR 617.7(c), finds that the proposed action will not result in any significant adverse environmental impact; and it is further

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Batavia does hereby authorize and direct the City Clerk to duly file this Negative Declaration.

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

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#62-2015

A RESOLUTION TO ADOPT LOCAL LAW NO. 2 OF THE YEAR 2015 ENTITLED "A LOCAL LAW TO AMEND §190-9, R-2 RESIDENTIAL DISTRICTS, (A) PERMITTED PRINCIPAL USES, (3), AND §190-39, PARKING REQUIREMENTS, (A) OFF-STREET PARKING (3), (A), (9) OF THE BATAVIA MUNICIPAL CODE TO PROHIBIT NEW APPLICATIONS FOR BOARDINGHOUSE, LODGING HOUSE, ROOMING HOUSE AND TOURIST HOME AS A PERMITTED PRINCIPLE USE"

Motion of Councilperson Briggs

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 June 22, 2015 before this Council, pursuant to public notice duly published in *The Daily News*; and

NOW, THEREFORE, BE IT RESOLVED, that proposed Local Law No. 2 of 2015 entitled "A LOCAL LAW TO AMEND §190-9, R-2 RESIDENTIAL DISTRICTS, (A) PERMITTED PRINCIPAL USES, (3), AND §190-39, PARKING REQUIREMENTS, (A) OFF-STREET PARKING (3), (A), (9) OF THE BATAVIA MUNICIPAL CODE TO PROHIBIT NEW APPLICATIONS FOR BOARDINGHOUSE, LODGING HOUSE, ROOMING HOUSE AND

TOURIST HOME AS A PERMITTED PRINCIPLE USE” be and the same is hereby enacted by City Council of the City of Batavia, New York.

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

**LOCAL LAW NO. 2 OF THE YEAR 2015
CITY OF BATAVIA**

TO AMEND §190-9, R-2 RESIDENTIAL DISTRICTS, (A) PERMITTED PRINCIPAL USES, (3), AND §190-39, PARKING REQUIREMENTS, (A) OFF-STREET PARKING (3), (a), (9) OF THE BATAVIA MUNICIPAL CODE TO PROHIBIT NEW APPLICATIONS FOR BOARDINGHOUSE, LODGING HOUSE, ROOMING HOUSE AND TOURIST HOME AS A PERMITTED PRINCIPLE USE

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

Section 1. §190-9. Residential Districts

A. Permitted principal uses.

- (3) Boardinghouse, lodging house, rooming house, tourist home, but not tourist camps or cabins. [Effective July 1, 2015 boardinghouse, lodging house, rooming house and tourist home will not be a permitted principle use for new applications. Only existing permits prior to July 1, 2015 will be authorized.]

Section 2. §190-39. Parking Requirements

A. Off-street parking.

- (3) Nonresidential uses. The number and layout of parking spaces for nonresidential uses shall be based on the need to protect public safety and convenience while minimizing harm to the character of the community and to environmental, historic and scenic resources. Since businesses vary widely in their need for off-street parking, it is most appropriate to establish parking requirements based on the specific operational characteristics of the proposed uses. The provisional parking standards in Subsection A(3)(a) below may be varied by the Planning and Development Committee according to the criteria in subsection A(3)(b).

(a) Provisional parking standards.

[9] Boarding- or rooming house: one space for ~~each bedroom~~. [each roomer owning and/or keeping a motor vehicle.]

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

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#63-2015

A RESOLUTION TO ADOPT LOCAL LAW NO. 3 OF YEAR 2015 ENTITLED "A LOCAL LAW TO AMEND §143 ROOMING HOUSES TO PROHIBIT NEW APPLICATIONS FOR ROOMING HOUSES"

Motion of Councilperson Canale

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 June 22, 2015 before this Council, pursuant to public notice duly published in *The Daily News*; and

NOW, THEREFORE, BE IT RESOLVED, that proposed Local Law No. 3 of the Year 2015 entitled "A LOCAL LAW TO AMEND §143 ROOMING HOUSES TO PROHIBIT NEW APPLICATIONS FOR ROOMING HOUSES" 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 9-0.

**LOCAL LAW NO. 3 OF THE YEAR 2015
CITY OF BATAVIA**

TO AMEND §143 ROOMING HOUSES TO PROHIBIT NEW APPLICATIONS FOR ROOMING HOUSES

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

Section 1. §143. Rooming Houses

§ 143-1. Title.

This chapter shall be known and may be cited as the "City of Batavia Rooming House Ordinance."

§ 143-2. Purpose and intent.

In recognition of the ~~influx~~-[saturation] of ~~semiresident persons~~ [rooming houses] in the city, it is the intent of this chapter to permit [existing] owners of dwellings to ~~provide~~-[maintain] sanitary, safe and attractive rooming houses for ~~such~~ persons, in order to promote the public health, welfare and safety of the community. [It is also the intent of this chapter to prevent new rooming houses from being established after the enactment of this amendment.]

§ 143-3. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires, the following definitions shall apply:

ROOMER

A roomer shall be any person renting or hiring habitation space in a dwelling unit hereinbefore defined, not within the second degree of kindred and who does not occupy such space as an incident of employment therein.

ROOMING HOUSE

A rooming house shall be a dwelling unit used wholly for habitation, where rooms for more than two and up to ~~20~~[10] people who would not be classified as a family unit as described in the City of Batavia zoning regulations are offered for hire, with or without meals, with or without kitchen facilities.

§ 143-4. Applicability.

- A. In order to protect the public health, welfare and safety of the community, no person shall operate a rooming house within the City of Batavia without obtaining a permit issued by the ~~Housing Inspector~~ [Code Enforcement Officer] upon the approval of the Planning ~~Board~~ [and Development Committee.] Such permit may be issued, provided that the procedures and standards of this chapter have been complied with.
- B. This chapter shall apply to existing buildings and dwelling houses [that have already received a permit to operate a rooming house prior to July 1, 2015. No new permits shall be issued by the Planning and Development Committee following July 1, 2015 other than renewal permits as outlined in § 143-5 of this chapter.]~~intended to be renovated and buildings newly constructed for the accommodation of roomers as herein defined.~~
- C. All provisions of the City of Batavia Municipal Code shall apply to the provisions of this chapter, except where exemptions are specifically authorized by this chapter.

§ 143-5. [~~Renewal of~~] Permits.

The ~~issuance of a~~[renewal of a]permit to operate a rooming house shall be granted upon the approval of the ~~Housing Inspector~~ [Code Enforcement Officer] subject to specific terms and conditions as herein provided. If any of these conditions are violated, the permit is subject to revocation [or not being renewed.]

- A. General provisions. The following general provisions shall apply:

~~1.—All applications for a rooming house permit shall be accompanied by a fee as set from time to time by resolution of the City Council.~~

- (1) All rooming house permits shall be renewed each and every year prior to January 1, and such permit shall be valid for the ensuing calendar year [only.]
- (2) The annual fee for renewing a rooming house permit shall be as set from time to time by resolution of the City Council.

(3) In the event that a rooming house is sold or the ownership is in any way changed, the existing permit shall be terminated and a new application shall be made as hereinabove set forth. Under no circumstances shall a permit for a rooming house be assigned. Change of ownership without a new application being made shall be grounds for revocation of such permit.

~~(4) Any person wishing to operate a rooming house shall make application for a permit. A rooming house operating prior to October 13, 1971, shall not be bound to the restrictions contained in § 143-6 which were not in force at that date. Any change in ownership of such a rooming house shall terminate such exemption, however, and the new owner must make application for a rooming house permit.~~

~~(5) No structure changes, alterations or modifications to rooming houses operating prior to October 13, 1971, shall be made except to reduce the degree of nonconformance with the restrictions of this chapter.~~

~~(6)~~(4) Rooming houses legally operating and duly licensed at the time of adoption of the ordinance from which this chapter is derived, and/or which may constitute nonconforming uses under the zoning regulations of the City of Batavia, shall be entitled to the issuance of a license under this chapter upon compliance with all of the provisions of this chapter except those restrictions contained in § 143-6.

B. Procedures for ~~obtaining~~ [renewing a rooming house permit or new application due to change in ownership.] In order to ~~operate a~~ [renew a] rooming house [permit] within the City of Batavia, the following procedures shall be followed:

(1) Applications for a rooming house permit [renewal] shall be ~~in triplicate~~ [completed,] and ~~upon forms~~ furnished by the office of the ~~Chief Inspector~~ [Code Enforcement Officer]. The application shall consist of a sworn statement setting forth:

(a) The name, address and telephone number of all persons involved as owners and/or operators of the proposed rooming house, a statement detailing a description of the building, ~~the present accommodations therein and the proposed renovations to be made;~~ information regarding the number of roomers to be accommodated and with specific information on the number of persons in each bedroom; ~~information regarding the square footage of the area of living space within the building and the square footage regarding the area of the proposed bedrooms.~~

~~(b)~~ Where the applicant for a rooming house permit is a nonresident, the application shall identify the name, address and telephone number of a local agent designated to act on behalf of the owner and responsible for the maintenance of the rooming house.

~~(b)~~(c) ____ [An inspection by the Code Enforcement Officer of the property and compliance with section 143-6 of this chapter.]

~~(c) In addition there shall be submitted detailed plans, both of the building and the lot upon which the building stands, and detailed use plans of the interior of the building, showing the rooms, their designated purposes, and the square footage of each room, location of windows and doorways and other pertinent information which the office of the Chief~~

~~Inspector deems necessary to protect and promote the public health, welfare and safety of the community. There shall also be set forth in the plans the type of renovation which will be made, with specific mention of building materials, electrical fixtures and type of heating.~~

- (2) In considering the ~~granting~~ [renewal or new application for] ~~of a license~~ [permit to operate] ~~for~~ a rooming house, the ~~Housing Inspector~~ [Code Enforcement Officer] shall take into consideration: ~~the general adaptability of the particular dwelling for renovation as a rooming house;~~

~~(a) Potential traffic problems~~ [that have arisen without resolve;]

~~the improvement of the property and of the neighborhood,~~

~~(b) [The] where the present structure is unsafe or in an unsanitary~~ [safety and/or sanitary] condition [of the structure], and the appearance of the building in the neighborhood;

~~(a)(c)~~ [Refusal to permit an inspection of the property by the Code Enforcement Officer;

~~(b)(d)~~ False statements on the application permit;

~~(c)(e)~~ Permittee's conviction of a crime;

~~(d)(f)~~ Any act or conduct of the permittee which indicates his/her unfitness to operate a rooming house;

~~(e)(g)~~ Any activity which affects the safety or tranquility of the surrounding community;]

~~and that by granting such a permit, enable a safe, sanitary and attractive building to be made available for rooming house purposes, where a need for same exists.~~

- (3) In the event the application is denied, the ~~Housing Inspector~~ [Code Enforcement Officer] shall notify the applicant of such action and indicate the reasons for such denial in writing.
- (4) In the event that the application is approved, the ~~Housing Inspector~~ [Code Enforcement Officer] shall set forth all the details and conditions for the granting of such permit in writing to the applicant. In such instances, all and any repairs or improvements, pursuant to the report of the ~~Housing Inspector~~ [Code Enforcement Officer,] shall be considered as conditions for the granting of a permit and shall be made by the applicant as directed prior to the issuance of the permit.
- (5) The granting of such a permit shall also include the conditions necessary for maintenance and renewal of such permit. Under the terms and conditions of this chapter of the City of Batavia Municipal Code, a rooming house permit shall be subject to revocation if prescribed terms and conditions upon which the permit was issued are not kept and/or it is found that the operations of such rooming house create an adverse impact upon the neighborhood. Adverse impact may include but shall not be limited to: excessive noise, [criminal activity by the roomers on the premise,] undue disturbances affecting the neighborhood and inadequate property maintenance and upkeep.

C. Enforcement. The ~~Housing Inspector~~ [Code Enforcement Officer] shall have all the powers and duties to enforce this chapter and to make inspections, serve notices and orders, and take any other appropriate action, except as otherwise provided in this chapter.

D. Revocation of permit.

- (1) The ~~Housing Inspector~~ [Code Enforcement Officer,] if he or she determines that reasonable grounds exist, may refer to the City Planning ~~Board~~ [and Development Committee] for a hearing to revoke any permit issued under this chapter.
- (2) The ~~Housing Inspector~~ [Code Enforcement Officer] shall give written notice to the holder of the rooming house permit of the charges, and the time, date and place that they will be presented to the Planning ~~Board~~ [and Development Committee.] Any permit may be revoked for making any false statement in the application for a permit; for a violation of any of the terms and conditions upon which the permit was issued; for any disorderly, indecent or immoral conduct on the premises; or for a violation of any of the rules or regulations, ordinances or laws of the United States, State of New York, County of Genesee or the City of Batavia.
- (3) The ~~Housing Inspector~~ [Code Enforcement Officer] shall cause notice of such referral and the reason or reasons therefor to be served upon the persons named in the application as the owner or holder and also upon the owner of record of the premises so used as a rooming house. Said service shall be by registered mail with a return receipt, directed to the holder of the permit at the subject premises and to the owner of the address of said owner last known to the ~~Housing Inspector~~ [Code Enforcement Officer,] or by personal or substituted service.
- (4) If the City Planning ~~Board~~ [and Development Committee] finds reasonable cause, the City Planning ~~Board~~ [and Development Committee] shall set a public hearing to consider revocation of the permit and shall cause a notice thereof specifying the time, date and place of the public hearing to be served in the same manner as above provided. If the City Planning ~~Board~~ [and Development Committee] finds, after the public hearing, that revocation of the permit is in the best interest of the community, the operator shall be notified of this decision in writing and an appropriate time for discontinuance of the rooming house established.

§ 143-6. Standards.

The following standards shall be met by an applicant for a rooming house permit:

- A. All applicable provisions of the New York State Uniform Fire Prevention and Building Code, 9 NYCRR Executive Volume B, shall apply to this chapter and shall be the standard imposed by the Bureau of Inspection in determining the fitness of the building for a rooming house, as hereinbefore provided, and shall determine the standards for violations.
- B. The owner or operator of any such rooming house shall provide one car space for each roomer owning and/or keeping a motor vehicle.

- C. A rooming house, as hereinbefore provided, must conform to the zoning requirements as set forth in Chapter 190, Zoning, of this Code.
- D. The maximum number of occupants permitted shall be in compliance with the provisions of the New York State Uniform Fire Prevention and Building Code, 9 NYCRR Executive Volume B, and its applicable standards.
- E. To ensure compliance with the New York State Uniform Fire Prevention and Building Code, ~~all~~ [any] plans and specifications [for the structure] shall be prepared by either a New York State registered architect or licensed professional engineer.
- F. No sign advertising the location of a rooming house or the availability of rooms shall be permitted.

§ 143-7. Penalties for offenses.

- A. The penalties for a violation of any of the provisions of this chapter shall be as prescribed in Chapter 1, General Provisions, Article II, General Penalty, of the City of Batavia Municipal Code. In addition to other remedies, the City of Batavia may institute appropriate action to restrain, prevent, enjoin, abate, correct or remove any violation and to take such other legal action as is necessary to carry out the terms and provisions of this chapter.
- B. The remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law; and all remedies may be pursued concurrently or consecutively, and the pursuit of any remedy shall not be construed as an election or waiver of the right to pursue any and all of the others.

§ 143-8. Appeals.

- A. Any person affected by any notice of violation or order issued in connection with the enforcement of any provision of this chapter concerning buildings or structures, or of any rule or regulation adopted pursuant thereto or the denial of issuance of permit, may request and shall be granted a hearing before the ~~City Planning Board~~ [City Planning and Development Committee,] provided that such person shall file in the ~~Office of the Chief Inspector~~ [Department of Public Works] a written request for such hearing, setting forth a brief statement of the grounds therefor, designating the person and his or her address upon whom orders may be served, and setting forth the reasons why such notice of violation or order should be modified or withdrawn.
- ~~B. If this request~~ If filed within 10 days after the service of notice of violation or order, compliance with such notice shall not be required while the hearing is pending, except in emergencies or as otherwise provided.

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

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#64-2015

RESOLUTION TO AUTHORIZE THE CITY MANAGER TO EXECUTE AND SUBMIT A NEW YORK STATE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) APPLICATION

Motion of Councilperson Doeringer

WHEREAS, it is the desire of the City Council to submit an application for the New York State Community Development Block Grant Program; and

WHEREAS, the process for this application involves holding a public hearing to provide residents with information about the Community Development Block Grant Program and to discuss community development needs and priorities; and

WHEREAS, the City of Batavia held a public hearing on Tuesday, July 7, 2015 allowing residents to assist the City in defining community development priorities and to assist the Council in identifying the possible projects for inclusion in the City's application for CDBG funding; and

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia hereby authorizes the City Manager of the City of Batavia, Genesee County, New York as the official representative of the City to execute and submit a Community Development Block Grant application for State Street Infrastructure Improvements to the administrative agency for the Fiscal Year 2015 program, all understandings and assurances contained therein, and is hereby directed and authorized to act in connection with the submission of the application and to provide such additional information as may be required; and

BE IT FURTHER RESOLVED, that the City is currently designing the State Street Infrastructure Improvements as part of the City of Batavia's adopted Capital Improvement Plan.

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

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#65-2015

A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO EXECUTE AND SUBMIT A NEW YORK STATE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) COMMUNITY PLANNING GRANT APPLICATION

Motion of Councilperson Christian

WHEREAS, it is the desire of the City Council to submit an application for the CDBG Community Planning Grant Program; and

WHEREAS, the process for this application involves holding a public hearing to provide residents with information about the Community Development Block Grant Program and to discuss community development needs and priorities; and

WHEREAS, the City of Batavia held a public hearing on Tuesday, July 7, 2015 allowing residents to assist the City in defining community development priorities and to assist the Council in identifying the possible projects for inclusion in the City's application for CDBG funding; and

WHEREAS, the City of Batavia will be submitting a grant application for the development of a Community Improvement Plan in the amount of \$50,000 for a total project amount of \$60,000; and

NOW, THEREFORE BE IT RESOLVED, that the City Council commits it will provide \$10,000 in matching funds; and

BE IT FURTHER RESOLVED, that the City Council of the City of Batavia hereby authorizes the City Manager of the City of Batavia, Genesee County, New York is hereby authorized as the official representative of the City to execute and submit a Small Cities Community Planning Program grant application to the administrative agency for the Fiscal Year 2015 program, all understandings and assurances contained therein, and is hereby directed and authorized to act in connection with the submission of the application and to provide such additional information as may be required.

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

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#66-2015

A RESOLUTION TO SUBMIT A RECREATIONAL TRAILS GRANT

Motion of Councilperson Deleo

WHEREAS, the City of Batavia is applying to the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) for a grant under the Recreational Trails Program for acquisition of easements along the Ellicott Trail; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council that the City Manager, is hereby authorized and directed to file an application for funds from the New York State Office of Parks, Recreation and Historic Preservation in an amount not to exceed \$200,000, and upon approval of said request to enter into and execute a project agreement with the State for such financial assistance to the City of Batavia; and

BE IT FURTHER RESOLVED, that the City of Batavia Council does hereby approve and endorse the application for a grant under the Recreational Trails Program for acquisition of easements along the Ellicott Trail; and

BE IT FURTHER RESOLVED, that the City of Batavia is committed to providing at least a 25 percent match toward the project.

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

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#67-2015

A RESOLUTION TO SUPPORT THE BATAVIA DEVELOPMENT CORPORATION'S NEW YORK MAIN STREET GRANT APPLICATION

Motion of Councilperson Pacino

WHEREAS, the New York State Office of Community Renewal (NYSOCR) is offering New York Main Street grants of up to \$500,000 through the Consolidated Funding Application (CFA); and

WHEREAS, the New York Main Street program provides funding for restoration or improvement of housing, commercial areas and public and community facilities; and

WHEREAS, the Batavia Development Corporation is an eligible applicant for the New York Main Street program; and

WHEREAS, the Batavia Development Corporation successfully administered the City of Batavia's 2011 New York Main Street program; and

WHEREAS, the Batavia Development Corporation would like to apply for an Anchor Grant under the New York Main Street Program; and

WHEREAS, municipalities in which New York Main Street projects are located are required to provide a resolution supporting the application for funding; and

NOW THEREFORE, BE IT RESOLVED, that the City of Batavia Council does hereby enthusiastically support the Batavia Development Corporation's application to the 2015 New York Main Street Program for an Anchor Grant of up to \$500,000.

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

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Meeting adjourned at 8:00 PM.

Respectfully submitted,

**Heidi J. Parker
Clerk-Treasurer**