

**CITY OF BATAVIA
BUSINESS MINUTES
JUNE 13, 2016**

The regular business meeting of the City Council was held Monday, June 13, 2016 at 7:00 PM in the Council Chambers, One Batavia City Centre, Batavia, New York, with Council President Jankowski presiding.

Present were Council President Jankowski and Councilpersons Hawley, Pacino, Briggs, Canale, McGinnis, Viele, Tabelski and Christian.

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

The minutes from the May meetings and the April financials were approved.

The Council President assigned the regular agenda items.

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Communications

Meredith Cutro requested to hold a birthday party in Centennial Park on Saturday, June 18th from 1:00 – 4:00pm. Council approved.

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Council President's Report

Council President Jankowski announced the next regular City Council Conference Meeting to be held on Monday, June 27, 2016 at 7:00 PM at the City Hall Council Board Room, 2nd Floor, City Centre.

Councilperson Hawley presented a proclamation to the 2016 Boys Varsity Basketball team for achieving the Section V Class A II Title.

Councilperson Briggs presented a proclamation to the 2016 Girls Varsity Basketball team for achieving the Section V Class A II Title.

Councilperson Tabelski presented a proclamation to the 2016 Girls Varsity Indoor Track team for achieving the Section V Class C Title.

Councilperson Briggs presented a proclamation to the 2016 Boys Varsity Outdoor Track team for achieving the Section V Class B Title.

Councilperson Pacino presented a proclamation to the 2016 Girls Varsity Outdoor Track team for achieving the Section V Class B Title.

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City Attorney's Report

Mr. Van Nest noted that they continued to work on a variety of matters and there was one update for executive session.

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City Manager's Report

Mr. Molino noted that the application for the Downtown Revitalization Initiative had been submitted.

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Committee Reports

Councilperson Christian noted that on June 8th she visited 400 Towers, the interior was beautiful and Mr. Varland was wonderful. Councilperson Pacino noted that the Memorial Day Parade was a huge success and wanted to thank Bob Bialkowski and Pier Cipollone for their help. She asked that Councilperson McGinnis join their team next year as well. She noted that the public market had begun on June 10th and would continue to October 28th. She also reminded everyone that Beertavia was being held on June 18th.

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Public Comments

Victor Gautieri, 45 Liberty St, thanked Council for the opportunity to speak and noted that he was the president of the BID board. He noted that the BID objected to scheduling a public hearing and the BID didn't recommend or support the amendment to the BID plan as proposed in resolution 73. He felt that the BID should make the recommendations but recognized that some amendments needed to be made. Mr. Gautieri felt it was up to the BID to make those changes and there must be approval from its own board.

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Council Responses to Public Comments

Councilperson Christian asked if the City supported the BID. Mr. Molino noted that we did and paid for 40% of their outstanding debt. Councilperson Tabelski felt an attorney should be consulted to make sure things were being handled legally.

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Unfinished Business

Councilperson McGinnis suggested that of the \$70,000 that is supposed to go to the BDC be divided so BDC gets \$30,000, BID gets \$30,000 and the balance goes to the general fund for a southside park. He felt that you shouldn't have arrogance without an apology from a BDC individual who wrote a letter. Councilperson Pacino stated that cheap shots are part of politics, people get fired up and take cheap shots, and if we take money away from BDC we don't hurt them, we hurt ourselves.

Councilperson Christian wanted to designate the last weekend of June for the annual yard sale. She noted that the person coordinating the event was Stacy Fairfield and provided her phone number.

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New Business

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#70-2016

A RESOLUTION TO CREATE A DEER MANAGEMENT COMMITTEE

Motion of Councilperson Christian

WHEREAS, the City has received complaints of deer in the community regarding vegetation damage and some vehicular accidents caused by deer; and

WHEREAS, in fall 2015 the City held a community meeting regarding deer in the City of Batavia and a presentation on community-based deer management was given to an audience of approximately 35 residents; and

WHEREAS, the presentation covered a variety of topics including, but not limited to, traditional concerns, community-based deer management strategies and factors influencing deer populations; and

WHEREAS, the City Council is desirous of creating an advisory Deer Management Committee (“Committee”) comprised of residents to study the issue and make a recommendation to City Council; and

WHEREAS, the Committee 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 City Council is desirous of setting clear expectations of what is to be accomplished, an outline of how resources will authorized to complete tasks, the inclusion of residents opining on both sides of the issue and a time line for completion. It is important to stress the criticality of a well versed group of residents that will represent all aspects of this issue.

WHEREAS, the duties of Committee should be as follows:

1. Meet as a Committee and review and determine if there is a deer population problem in the City.
2. Review the methodology and process for properly evaluating, reviewing and addressing deer populations from a community-based deer management perspective.
3. To review the cost estimate methodology, costs for each alternative, discuss unanticipated cost areas and contingencies and possible funding sources.
4. The City Manager’s Office and other subject matter experts such as the NYS Department of Environmental Conservation shall assist the Committee as needed and attend meetings.
5. Make a recommendation to City Council no later than July 1, 2017.

NOW THEREFORE, BE IT RESOVLED, the City Council of the City of Batavia does hereby create the Deer Management Committee and shall advertise for interested residents to serve on said Committee.

BE IT FURTHER RESOLVED, that one City Council member shall be appointed to the Committee.

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

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#71-2016

**A RESOLUTION TO ENTER INTO AN AGREEMENT
WITH ERDMAN ANTHONY FOR PRELIMINARY DESIGN,
R.O.W. INCIDENTALS, AND R.O.W. ACQUISITIONS FOR THE
CITY OF BATAVIA HEALTHY SCHOOLS CORRIDOR**

Motion by Councilperson Hawley

WHEREAS, a Project for the Reconstruction of Sidewalks for Healthy Schools Corridor, P.I.N. 4755.93, is eligible for funding under Title 23 U.S. Code, as amended, that calls the apportionment of the costs of such program to be borne at the ratio of 80% Federal funds and 20% non-federal funds; and

WHEREAS, the City of Batavia desires to advance the Project by adding a supplemental agreement to include the Preliminary Design, Right-of-way Incidentals, and Right-of-way Acquisitions; and

WHEREAS, the supplemental agreement with Erdman Anthony will increase the total amount by \$37,600; and

NOW, THEREFORE, be it resolved that City Council approves the award of a supplemental agreement for Engineering Services, Preliminary Design, Right-of-way Incidentals, and Right-of-way Acquisitions for the Reconstruction of Sidewalks for the Healthy Schools Corridor to Erdman Anthony for a total of \$ 247,600 or as otherwise modified by New York State Department of Transportation.

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

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#72-2016

A RESOLUTION TO AMEND THE 2016-2017 POLICE DEPARTMENT BUDGET TO REFLECT THE RECEIPT OF A REFUND FROM EOTECH CORPORATION

Motion of Councilperson Tabelski

WHEREAS, the City of Batavia Police Department has received a refund in the amount of \$5,214.90 from EOTECH CORPORATION; and

WHEREAS, to properly account for the expenditure of this money, a budget amendment needs to be made; and

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the City Manager be and hereby is authorized to make the following budget amendment to the 2016-2017 budget;

Effective June 13, 2016, amend the 2016-17 budget:

Increase expenditure accounts	
001.3120.0201.0050	\$ 5,214.90
Increase revenue accounts	
001.0001.2690.0000	\$ 5,214.90

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

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#73-2016

**A RESOLUTION TO SCHEDULE A PUBLIC HEARING AND INTRODUCE
PROPOSED LOCAL LAW NO. 3 OF THE YEAR 2016 ENTITLED “AMENDING THE
BUSINESS IMPROVEMENT DISTRICT PLAN”**

Motion of Councilperson Canale

BE IT RESOLVED, that proposed Local Law No. 3 of the year 2016 entitled “LOCAL LAW NO. 3 OF THE YEAR 2016 AMENDING THE BUSINESS IMPROVEMENT DISTRICT PLAN” is introduced before the City Council of the City 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; and

BE IT FURTHER RESOLVED, that the City Council hold a public hearing on said proposed Local Law at City Hall, One Batavia City Centre, Batavia, New York, at 7:00 p.m. on Monday, June 27, 2016; and

BE IT FURTHER RESOLVED, that the City Clerk publish or cause to be published a public notice in the official newspaper of the City of said public hearing at least ten (10) days prior thereto.

Seconded by Councilperson McGinnis and on roll call approved 7-2. Councilpersons Briggs and Viele voted no.

**LOCAL LAW NO. 3 OF THE YEAR 2016
CITY OF BATAVIA**

A LOCAL LAW AMENDING THE BUSINESS IMPROVEMENT DISTRICT PLAN

A LOCAL LAW amending the Business Improvement District Plan in the City of Batavia in accordance with Article 19-A of the General Municipal Law submitted to the City Clerk on June 9, 2016.

BE IT ENACTED by the City Council of the City of Batavia as follows:

SECTION 1. The Downtown Business Improvement District established by Local Law No. 6 of 1997 adopted on November 24, 1997 and further outlined in Chapter 58 of the Code of the City of Batavia, and was amended by Local Law No. 3 of 2005 adopted on June 27, 2005 to include the Ellicott Street business area, the City Council having found that the amendment of the district plan,

herein attached, is in the public interest, that all notice and hearing requirements have been complied with, that all properties within the district will benefit from the amendments and that all property benefited is included in the boundaries of the district.

SECTION 2. The provision of services within the district shall be pursuant to said amended district plan of the Downtown Batavia Business Improvement District (BID). All said services shall be in addition to, and not a substitution for required municipal services provided by the City of Batavia on a city-wide basis.

SECTION 3. To the extent not explicitly provided herein, the provisions set forth in Article 19-A of the General Municipal Law shall govern the operation of the Downtown Batavia Business Improvement District and the Batavia Business Improvement District Management Association.

Insofar as the provisions of this Local Law are inconsistent with the provisions of any other Local Law or act, the provisions of this local law shall be controlling.

SECTION 4. Any additional amendments to the BID or the BID Plan shall be made in accordance with the provisions set forth in section 980-i of Article 19-A of the General Municipal Law.

SECTION 5. The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law which can be given effect without such invalid part or parts.

Discussion – George Van Nest noted that he disagreed with the public comment and noted that the creation of the BID was through the municipality so the plan amendment can be done by the City. He explained that after consulting with NYCOM, an amendment to bring the plan into compliance is acceptable to be done by the municipality. Mr. Van Nest stated the compliance needed to be implemented, felt the appropriate step was to move forward with the public hearing, and that everyone would have an opportunity to speak about the matter. Councilperson Hawley asked what would happen if the BID didn't come into compliance. Mr. Van Nest noted that the comptroller's office would come out and do an audit. Councilperson Canale asked where the BID's viewpoint was coming from with regards to not agreeing with the City's suggestions for compliance. Mr. Van Nest stated that he wouldn't speak for their board but assumed they objected to the amendments being made for them. Mr. Molino noted the City hadn't had discussions with the BID's legal counsel yet. Councilperson Pacino asked who they were not in compliance with. Mr. Molino stated they weren't in compliance with the general municipal law and with the existing district plan. He noted that the proposal would bring everything into compliance, follow the open meeting law, and ask the BID budget to come to the City by January 15th of each year to ensure compliance. Councilperson Canale asked why the members of BID management were opposing the proposal and noted that the public hearing would allow them to explain why. Councilperson Briggs stated that the BID just wanted to get everything resolved and then bring it to the City. Council President Jankowski noted that the process was a state law. Councilperson Christian noted that none of us were above the law and we need to be in compliance.

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#74-2016

A RESOLUTION TO SCHEDULE A PUBLIC HEARING FOR THE APPROVAL OF A CABLE TELEVISION AGREEMENT BETWEEN COMMUNITY CABLE CORPORATION (“NORTH PENN VIDEO”) AND THE CITY OF BATAVIA

Motion of Councilperson Christian

WHEREAS, a public hearing is required by the New York State Public Service Commission; and

WHEREAS, a copy of the cable television franchise agreement is available for public inspection during normal business hours at the City Clerk’s Office, One Batavia City Centre, Batavia, NY 14020; and

BE IT FURTHER RESOLVED, that the City Council hold a public hearing regarding granting a cable television franchise agreement by and between the City of Batavia and North Penn Video in the Council Board Room, Second Floor, One Batavia City Centre, Batavia, New York, at 7:00 PM on Monday, June 27, 2016; and

BE IT FURTHER RESOLVED, that the City Clerk publish or cause to be published a public notice in the official newspaper of the City of said public hearing at least seven (7) days prior thereto.

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

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#75-2016

A RESOLUTION TO SCHEDULE A PUBLIC HEARING FOR THE APPROVAL OF A CABLE TELEVISION AGREEMENT BETWEEN EMPIRE VIDEO SERVICES CORPORATION (“EMPIRE VIDEO”) AND THE CITY OF BATAVIA

Motion of Councilperson Pacino

WHEREAS, a public hearing is required by the New York State Public Service Commission; and

WHEREAS, a copy of the cable television franchise agreement is available for public inspection during normal business hours at the City Clerk’s Office, One Batavia City Centre, Batavia, NY 14020; and

BE IT FURTHER RESOLVED, that the City Council hold a public hearing regarding granting a cable television franchise agreement by and between the City of Batavia and Empire Video in the Council Board Room, Second Floor, One Batavia City Centre, Batavia, New York, at 7:00 PM on Monday, June 27, 2016; and

BE IT FURTHER RESOLVED, that the City Clerk publish or cause to be published a public notice in the official newspaper of the City of said public hearing at least seven (7) days prior thereto.

Seconded by Councilperson Viele 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)(d), of the Public Officer's Law permits the legislative body of a municipality to enter into Executive Session to discuss "...proposed, pending or current litigation...".

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, 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 Tabelski and on roll call approved 9-0.

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Meeting adjourned at 8:00 PM.

Respectfully submitted,

**Heidi J. Parker
Clerk-Treasurer**