

**CITY OF BATAVIA
BUSINESS MINUTES
DECEMBER 12, 2016**

The regular business meeting of the City Council was held Monday, December 12, 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, McGinnis, Viele, Tabelski, Canale and Christian.

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

The minutes from the November meetings and the October financials 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 Jankowski announced the next regular City Council Business meeting would be held Monday, January 9, 2016 in the City Hall Council Board Room, 2nd Floor, City Centre.

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City Attorney's Report

Mr. Van Nest noted that he had nothing specific to report but they were working on a variety of matters including tax foreclosures.

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City Manager's Report

Ray Chaya offered an update on the BDC projects. He noted that the big announcement came from Empire State Development for the Ellicott Station project. He provided details about a microenterprise program, Newberry's building with the brewery, freshlab and apartments, and Harvester Park. Mr. Chaya was excited about each of the projects and noted that the \$1.9 million from the state for Ellicott Station was the biggest. He stated that we've come to be a community of believers who worked together to get the message across that we wanted to get this project going. He felt that all the success in WNY had helped the City get approved. He noted that there are new market tax credits now available to Mr. Savarino because of the \$1.9 funding. He felt it was a time for us to celebrate and show a unified and shared commitment to downtown community revitalization. He noted that he and Suzie Ott would be transitioning off the BDC board in January and the former Councilperson Pier Cipollone would be taking his position.

Mr. Molino also noted that the City received a \$50,000 grant for a storm water capital plan and he would discuss that more at budget time.

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Committee Reports

None.

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Public Comments

None.

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Council Responses to Public Comments

None.

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Unfinished Business

None.

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New Business

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#110-2016

A RESOLUTION INTRODUCING A LOCAL LAW AMENDING §190-3, ZONING, DEFINITIONS, §190-14(D), ZONING, C-3 CENTRAL COMMERCIAL DISTRICT, DOWNTOWN DESIGN GUIDELINES, AND §190-43, SIGNS AND EXHIBIT A OF THE BATAVIA MUNICIPAL CODE TO AMEND THE CITY SIGN CODE AND RELATED PROVISIONS

Motion of Councilperson Christian

BE IT RESOLVED, that Local Law No. 4 of the Year 2016 entitled “**LOCAL LAW NO. 4 OF THE YEAR 2016 CITY OF BATAVIA TO AMEND §190-3, ZONING, DEFINITIONS, §190-14(D), ZONING, C-3 CENTRAL COMMERCIAL DISTRICT, DOWNTOWN DESIGN GUIDELINES, AND §190-43, SIGNS AND EXHIBIT A OF THE BATAVIA MUNICIPAL CODE TO AMEND THE CITY SIGN CODE AND RELATED PROVISIONS**” be introduced before the City Council of Batavia, New York; and

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

BE IT FURTHER RESOLVED, that the City Council hold a public hearing on said proposed Local Law in the Council Board Room, Second Floor, One Batavia City Centre, Batavia, New York, at 7:00 p.m. on Monday, January 9, 2016; and

BE IT FURTHER RESOLVED, that the City Clerk publish or caused to be published a public notice in the official newspaper of the City of said public hearing at least five (5) days prior thereto.

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

**LOCAL LAW NO. 4 OF THE YEAR 2016
CITY OF BATAVIA**

TO AMEND §190-3, ZONING, DEFINITIONS, §190-14(D), ZONING, C-3 CENTRAL COMMERCIAL DISTRICT, DOWNTOWN DESIGN GUIDELINES, AND §190-43, SIGNS AND EXHIBIT A OF THE BATAVIA MUNICIPAL CODE TO AMEND THE CITY SIGN CODE AND RELATED PROVISIONS

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

Section 1. §190-3. Definitions

SIGN²

(1) ~~AWNING~~/CANOPY SIGN

A sign where graphics or symbols are painted, sewn, or otherwise adhered to the awning material as an integrated part of the awning itself. ~~A sign incorporated into an awning attached to a structure.~~

(2) BACKLIT ILLUMINATION

Signs that are backlit illuminated involve a low level of external light shining out from behind solid object, most often letters, creating a soft glow around the outside of the objects.

(3) BRACKET SIGN

A freestanding sign attached to the ground by one or more support structures that is not higher than 5 feet and hangs from a bracket or support.

(4) CANOPY SIGN

A sign placed on a canopy so that the display surface is parallel to the plane of the wall.

~~COPY CHANGE SIGN~~

~~A sign on which the visual message may be periodically changed.~~

~~(2)~~(5) DIRECTIONAL SIGN

A permanent sign which is designed for the purpose of directing traffic or pedestrian traffic to the location of an activity or business. ~~A logo or advertising is not permitted.~~

(6) ELECTRICAL RACEWAY

A raceway (sometimes referred to as a raceway system) is an enclosed conduit that forms a physical pathway for electrical wiring. Raceways protect wires and cables from heat, humidity, corrosion, water intrusion and general physical threats.

(7) ELECTRONIC MESSAGE BOARD

An illumination type that produces a static or changeable electronic message using light-emitting diodes (LED), liquid crystal display (LCD) or other digital display method; that is designed to provide an electronic message or display that may generate and periodically changed using an internal, external or remotely located electronic control system; which contains an illuminated, programmable message or graphic, whether fixed or moving.

(8) EXTERNAL ILLUMINATION

Signs that are externally illuminated have light shining on to the outer surface of the sign. External illumination may be downlit (lit from above) and uplit (lit from below).

~~(3)~~(9) FREESTANDING SIGN

A self-supporting sign not attached to any building, wall or fence, but in a fixed location, includes pole signs, pylon signs, and masonry wall-type signs, but does not include portable trailer-type signs.

(10) ICONIC SIGN

A sculptural, typically three-dimensional sign whose form suggests its meaning, and which can either be building-mounted or freestanding.

~~(4)~~(11) ILLUMINATED SIGN

Any sign illuminated by electricity, gas or other artificial light either for the interior, back lit or exterior of the sign, and which includes reflective and phosphorescent light.

(12) INTERNAL ILLUMINATION

Signs that are internally illuminated have light shining through the surface of the sign. Typically, these either involve a rectangular-shaped box sign or individual letters (channel letters) that are lit from inside. Neon signs are not considered internally illuminated.

~~(5)~~(13) MARQUEE SIGNS

~~A sign attached to the top or the face of a permanent roof-like structure. A sign, usually associated with a movie house or playhouse, projecting over an entrance to a building.~~

(14) MONUMENT SIGN

A freestanding sign attached to the ground along its entire length to a continuous pedestal. A monument sign is horizontally oriented or is square.

~~(6)~~(15) OFF-PREMISES SIGN

A sign unrelated to a business or a profession conducted, or to a commodity or service sold or offered, upon the premises where such a sign is located.

(16) POLE SIGN

A freestanding sign constructed on a structure of one or more poles.

~~(7)~~(17) PORTABLE SIGN

A sign designed to be portable and not structurally attached to the ground, building, structure or another sign.

PRICE POD

~~A secondary sign located on the same pole as a primary freestanding dedicated to displaying prices of products, such as gasoline, sold on premises~~

~~(8)~~(18) **PROJECTING SIGN**

~~A sign attached to the building facade at a 90-degree angle, extending more than 15 inches. A projecting sign may be two or three dimensional. A sign which hangs perpendicular to a building wall.~~

(19) SHINGLE SIGN

A small projecting sign that hangs from a bracket or support.

(20) SIDEWALK SIGN

A moveable sign not secured or attached to the ground or surface upon which it is located.

~~(9)~~(21) **SIGN**

A structure or device designed or intended to convey information to the public in written or pictorial form.

~~**SIGN DIRECTORY**~~

~~A listing of two or more business enterprises, consisting of a matrix and sign components.~~

~~(10)~~(22) **SIGN STRUCTURE**

~~The supports, uprights, bracing and framework for the sign. In the case of a sign structure consisting of two or more sides where the angle formed between any two of the sides or the projections thereof exceeds 30°, each side shall be considered a separate sign structure.~~

~~(11)~~(23) **SIGN SURFACE AREA**

The entire area within the single, continuous perimeter enclosing the limits of writing representation, emblem or any figure or similar character. Supports, uprights or structures on which any sign is supported shall not be included in the sign face area unless it is an integral part of the sign.

~~**SUSPENDED SIGNS**~~

~~A sign which hangs down horizontally from a plane surface such as a porch or other structural element.~~

~~(12)~~(24) **TEMPORARY SIGN**

A sign ~~related to a single activity or event~~ having a duration of no more than 60 days.

~~(13)~~(25) WALL SIGN

A sign placed or painted against a building and attached to the exterior front, rear or side so that the display surface is parallel to the plane of the wall. ~~A sign that is painted on or attached to the outside wall of a building with the face of the sign in the plane parallel to such wall, and not extending more than 15 inches from the face of such wall.~~

~~(14)~~(26) WINDOW SIGN

A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, or located inside within four feet of the window, but not including graphics in connection with customary window display of products.

Section 2. §190-14(D), ZONING, C-3 CENTRAL COMMERCIAL DISTRICT

D. Downtown design guidelines.

- (2) Application procedures. The Planning and Development Committee shall review all applications for the following actions that lie within the Downtown Batavia Business Improvement District as described in Chapter 58 of the Code of the City of Batavia:

(a) Any action, except those solely related to sign permits, involving exterior changes which requires the issuance of a building permit or demolition permit.

(b) Any application for a sign or sign structure. Applications are not necessary for the following actions:

[1] Any actions that require review by the Historic Preservation Commission.

[2] Any action reviewed and approved for a Facade Grant award from the Downtown Batavia Business Improvement District (BID). A letter confirming approval of the award shall be forwarded to the Code Enforcement Officer by the BID Manager or President.

[3] Any ordinary maintenance or repair that does involve a change in design, material or outer appearance thereof. The Committee must act on all applications within 60 days of their receipt.

- (d) Standards to guide Committee.

[8] ~~Signs and awnings~~Awnings. ~~Signs in the Downtown Batavia Business Improvement District shall comply with § and the following:~~

~~[a] Primary signs are restricted to displaying the name of the business and some immediate relevant information only. They should be simple, straightforward and easy to read from a distance. Secondary information, such as details about the business, hours of operation, etc., should be reserved for smaller window signs which may be read close up at the pedestrian level.~~

~~[b] Primary signs should be located directly above the front door, within a vertical band down one side near the door, or on the awning face. Such signs should not project more than six inches from the plane of the facade.~~

~~[c] Long, continuous lengths of awnings are not recommended. Instead, a series of similar sized smaller ones is preferred.~~

~~[d] Building identification and signs should be incorporated into the design of the facade itself, with a clear and distinguishable portion of the facade reserved solely for the purpose of framing it. It is recommended that lettering be applied directly to the building itself, instead of onto a sign which is tacked on the building. Colors should be kept to a minimum, and should complement those found on the building.~~

~~[e] Exterior box type backlit, moving, flashing or neon signs and awnings are discouraged. Other types of signs not recommended are those made of plywood and plastic materials.~~

~~[f] The use of small lettering on the inside of the upper floor windows to identify the businesses within is encouraged.~~

Section 3. §190-43, SIGNS AND EXHIBIT A

Deleted existing §190-43, Signs and EXHIBIT A in entirety and replace it with the following §190-43, Signs:

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#111-2016 A RESOLUTION TO CONTRACT FOR PROSECUTORIAL SERVICES WITH GENESEE COUNTY

Motion of Councilperson Hawley

WHEREAS, the City of Batavia has contracted with Genesee County for the past several years for Prosecutorial Services; and

WHEREAS, the Contract between the City and County for these services expires December 31, 2016; and

WHEREAS, the City is desirous of continuing with the Inter-Municipal City Court Prosecutorial Services Agreement; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council President for the City of Batavia is hereby authorized to sign an Inter-Municipal City Court Prosecutorial Services Agreement between the City of Batavia and Genesee County.

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

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#112-2016

**A RESOLUTION SCHEDULING REGULAR COUNCIL MEETINGS THROUGH
DECEMBER 31, 2017**

Motion of Councilperson Viele

WHEREAS, the Batavia City Council, pursuant to the City Charter, is required to schedule regular Council meetings through the standard resolution process; and

WHEREAS, City Council historically meets on the second and fourth Monday of each month except during the months of July, August and December where the Council meets only on the second Monday; and

WHEREAS, City Council must designate the specific location and time of meetings on an annual basis.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia hereby designates the Council Board Room located at City Hall, One Batavia City Centre, as the regular meeting place for the scheduled Council meetings through December 31, 2017; and

BE IT FURTHER RESOLVED, that the City Council shall meet at 7:00 p.m. at the City Council Board Room on the designated dates as outlined on Attachment "A" through December 31, 2017.

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

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#113-2016
A RESOLUTION TO AUTHORIZE BUDGET AMENDMENTS

Motion of Councilperson McGinnis

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 received insurance and other settlements for property damage; and

WHEREAS, the City's Youth Bureau received an increase in funding from Genesee County through their allocation process as a result of state add-on funding; and

WHEREAS, the Washington Street Sewer and Summit Street Water Capital projects were under budget, and the scope of the project was enhanced to include the replacement of 20 year old water meters in the amount of \$16,125.00 and \$21,245.01 respectively, with more accurate and updated radio read meters which will aid in reducing lost water revenues; and

WHEREAS, the City of Batavia is in receipt of a Zombie and Vacant Properties Remediation and Prevention Initiative grant for \$66,500 from the Local Initiatives Support Corporation to assist with supporting housing quality improvement and enforcement programs; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia does hereby authorize the following budget amendments:

Effective November 28, 2016, amend the 2016-17 budget by increasing expenditure accounts:

001.1325.0472	Tax Foreclosure Expenses	\$ 15,000.00
001.3120.0406	Police – Transportation	\$ 3,958.53
001.7310.0401	Youth Service - Supplies	\$ 895.00
001.7310.0456	Youth Service – Contract Program	\$ 450.00
001.6460.0100.1160	Community Devel. – Personnel	\$ 30,750.00
001.6460.0801.1160	Community Devel. – State Retirement	\$ 3,250.00
001.6460.0802.1160	Community Devel. – Social Security	\$ 2,000.00
001.6460.0430.1160	Community Devel – Office Supplies	\$ 10,000.00
001.6460.0435.1160	Community Devel. – Travel & Training	\$ 1,000.00
001.6460.0201.1160	Community Devel – Small Equipment	\$ 7,500.00
001.6460.0423.1160	Community Devel. – Contr Srvc Research	\$ 2,000.00
001.6460.0423.1160	Community Devel. – Contr Srvc (Other)	\$ 10,000.00

Decreasing expense account:

001.1990.0500	Contingency	\$ 15,000.00
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and increasing revenue accounts:

001.0001.2690	Other Compensation for Loss	\$ 3,958.53
001.0001.3820	Recreation Program	\$ 1,345.00
001.0001.3989	State Aid - Other Home and Community Services	\$ 66,500.00

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

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#114-2016
A RESOLUTION AUTHORIZING AGREEMENT WITH
NEW YORK STATE DEPARTMENT OF TRANSPORTATION FOR
PRELIMINARY ENGINEERING AND DESIGN FOR THE
CITY OF BATAVIA, HIGHWAY PREVENTIVE MAINTENANCE (SIX STREETS)

Motion of Councilperson Pacino

WHEREAS, a project for the preventive maintenance of six streets Clinton Street from Routes 5/33 to City Line, East Avenue from Clinton Street to Ross Street, Liberty Street from NYS Route 63 to NYS Route 5/33, South Liberty Street from South Jackson Street to NYS Route 63, Swan Street from NYS Route 63 to NYS Route 5/33, and Vine Street from NYS Route 5/33 to Bank Street, City of Batavia, Genesee County, P.I.N. 4761.16 (the "Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for 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 making a commitment of 100% of the non-Federal share of the costs of Preliminary Engineering and Design; and

NOW THEREFORE, the City Council, duly convened does hereby resolve that the above-referenced Project is approved; and

BE IT FURTHER RESOLVED, that the City Council hereby authorizes the payment in the first instance 100% of the Federal and non-Federal share of the cost of Preliminary Engineering and Design for the Project or portions thereof; and

BE IT FURTHER RESOLVED, that the sum of \$60,050 is hereby appropriated and made available to cover the cost of participation in the above phase of the Project; and

BE IT FURTHER RESOLVED, that in the event the full Federal and non-Federal share

of the Project costs exceeds the amount appropriated above, the City Council shall convene as soon as possible to appropriate said excess amount immediately upon notification by the New York State Department of Transportation thereof; and

BE IT FURTHER RESOLVED, that the Council President be and is hereby authorized to execute all necessary agreements, and the Director of Public Works is authorized to execute certifications or reimbursement requests for Federal aid on behalf of the City Council with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of Project costs and permanent funding of the local share of Federal aid and State aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

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

Discussion – Councilperson Christian noted that Harvester was probably one of the worst streets in Batavia and wondered when it was going to be fixed. Mr. Molino stated that he wasn't sure because it wasn't high on the PCI index. Councilperson Canale noted that the pavement wasn't the problem but the placement of the manhole covers.

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Meeting adjourned at 7:50 PM.

Respectfully submitted,

**Heidi J. Parker
Clerk-Treasurer**