

# **CITY OF BATAVIA BUSINESS MINUTES APRIL 10, 2017**

The regular business meeting of the City Council was held Monday, April 10, 2017 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 Pacino, Briggs, McGinnis, Tabelski, Canale, Bialkowski, Viele and Christian.

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

The minutes from the March 2017 meetings and the February 2017 financials were approved.

The Council President assigned the regular agenda items.

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## **Communications**

The TVFCU submitted an application for a 5K/10K run on Sunday, May 21<sup>st</sup> at 9:00am. The race starts at the credit union drive thru. Council approved.

Councilperson Bialkowski received written concerns from a citizen who did not include their name about problems that they have been facing since the resurfacing project a few years ago on Bank St. They noted that there are no longer curbs, there are ruts in the parkway, potholes and cracks in the pavement and sidewalks on the east side were not replaced and are in very poor condition.

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## **Council President's Report**

Council President Jankowski announced the next regular City Council Conference meeting would be held Monday, April 24, 2017 in the City Hall Council Board Room, 2<sup>nd</sup> Floor, City Centre.

Presentation by DePaul Properties, Inc. – Ashley Champion, attorney from Nixon Peabody, noted that there was a rezoning application for property on East Main St to change from industrial to R3 but the City Planning Board suggested amending the request to change it

to a C2. Mark Fuller, President of DePaul wanted Council to hear what they were proposing to do in Batavia. He gave his background including that he once lived in Batavia, now lives in LeRoy, and he wanted to get into health care. He noted that DePaul has been in the housing business for about 40 years and they were currently working on 19 projects. Mr. Fuller explained that the state identified Genesee County as needing affordable housing and money is set aside for these types of projects. He noted that he wanted to give back to the county and their project would provide 18 ongoing jobs. He stated that DePaul was a 501(c)(3) and they do a variety of housing. Mr. Fuller noted they employ about 50 people from Genesee County, all projects fill within 2-3 weeks and there are usually waiting lists to get into one of their housing units. He explained that most of the time projects are started because they were approached by the municipality to develop affordable housing. He noted that every project has brought up the neighborhood around it and all apartments are staffed 24/7. Joe Gibbons, architect, explained that there are 80 units within six buildings on a site of almost five acres. He noted it was designed in a neighborhood concept with greenspace all around, 94 parking spaces and highly energy efficient. Mr. Fuller added that if there was anything that needed tweaking, they could do that as they work with Council and the planning board. He noted they are getting no additional funds to provide veterans' housing. Gillian Conde, VP of DePaul, explained the different costs of the units at market rate and mid-market rate and noted that residents have to have income to live there. She noted there was a high sense of security in their buildings and all tenants receive extensive background checks. She stated this was not public housing.

After asking how long the PILOT would be for and hearing it would be 30 years, Councilperson Christian stated she thought it should be less. Mr. Fuller stated he didn't think they could do the project with less financing. Councilperson Pacino asked how DePaul knew there was a need for the housing. Mr. Fuller stated they currently had 45 people on the waiting list at their new project. Ms. Conde noted they work with GAR who does their market study and Housing and Community Renewal won't fund project unless there is a market study that proves there is a need. Councilperson Viele asked what 581a was. Mr. Penna, attorney, noted that it was for housing based on income – an income approach based assessment. Councilperson Viele noted that the draft comprehensive plan expects a drop in population so why the need for this housing. Mr. Fuller noted that the population might drop but affordable housing is in need. Councilperson Viele asked if they didn't get the PILOT would the project still move forward. Mr. Fuller said no because they are giving reduced rents and they couldn't pay the taxes on the rents they would be receiving. Ms. Champion noted that even with the PILOT, the City would still get more tax revenue than they are currently getting. Councilperson Canale noted that quite a few housing projects come into Batavia for affordable housing but get turned over into low income, subsidized housing and he is concerned this would happen with this project. He wondered what the project will look like in 25 years. Mr. Fuller noted that the best predictor of future behavior is past behavior and suggested Council go look at some projects that have been up for 35 years. He felt they would still be impressed with how they look. Councilperson Bialkowski asked where the motivation was for people to move out eventually and get a home of their own. Ms. Conde noted that was what the housing

specialist was for as they would help them reach their future goals. Council President Jankowski asked what happens if guests who are not so good end up staying with the resident. Ms. Conde noted that guests can only stay so long before they have to register and be vetted like the residents. Councilperson Tabelski wanted to clarify the number of units to be ADA compliant and Ms. Conde said it would be 40.

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### **City Attorney's Report**

Mr. Van Nest noted that he had nothing specific to report.

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### **City Manager's Report**

Mr. Molino noted that he had nothing specific to report.

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### **Committee Reports**

Councilperson Pacino reported that she couldn't be more excited for the BID as they have a plan to get their own sponsors and hope to bring back more events they used to have to the City. Councilperson Bialkowski noted that invitations for the parade will be sent out and the Air Force approved a fly over for the Memorial Day parade. Council President asked for Council to help with the selection of Homeowner of the Year, etc and Councilpersons Pacino, Christian and McGinnis agreed.

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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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**#48-2017**

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

**Motion of Councilperson Briggs**

**WHEREAS**, certain vacancies exist on various City Committees/Boards.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Batavia that the following appointments be made:

**Historic Preservation Commission**

Caroline Hosek December 31, 2019

**Youth Board**

Mona Doyon December 31, 2019

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

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**#49-2017**

**A RESOLUTION TO DECLARE POLICE DEPARTMENT EQUIPMENT SURPLUS FOR THE PURPOSE OF DISPOSAL**

**Motion of Councilperson Viele**

**WHEREAS**, The Bureau of Police has declared the equipment listed below surplus; and

**WHEREAS**, the City of Batavia requires a surplus declaration of property to be made prior to disposal or sale of equipment;

**NOW THEREFORE, BE IT RESOLVED**, by the Council of the City of Batavia that the City Manager be and hereby is authorized to declare the following as surplus for the purpose of disposal:

- Heckler & Koch MP5A3 submachine gun, serial number 62-349438

- Heckler & Koch MP5A3 submachine gun, serial number 62-349439
- Heckler & Koch UMP .40 submachine gun, serial number 162-001918
- Heckler & Koch UMP .40 submachine gun, serial number 162-001919
- Yankee Hill 5.56 Suppressor, serial number YS-2895

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

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**#50-2017**

**A RESOLUTION TRANSFERRING \$4,000 FROM COMMITTED FUND BALANCE TO THE GENERAL FUND FOR THE PURPOSE OF SUPPORTING THE 2017 PICNIC IN THE PARK EVENT**

**Motion of Councilperson Canale**

**WHEREAS**, annually the Genesee Orleans Arts Council (GO ART!) organizes the annual Picnic In the Park event held at Centennial Park on the 4<sup>th</sup> of July weekend; and

**WHEREAS**, due to budget constraints the event is at risk of not continuing beyond 2017; and

**WHEREAS**, the City Council recognizes the importance of community events such as Picnic in the Park and is desirous of supporting the event as it contributes to neighborhood development, economic development and community pride; and

**WHEREAS**, as of March 31, 2017 Committed Fund Balance has an estimated \$52,611 that was committed with the original intent of funding initiatives that bring an enhanced quality of life and economic development benefit to the community; and

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

Effective April 10, 2017, amend the 2017-18 budget by decreasing the following account:

001.0001.0913	Committed fund balance	(\$4,000)
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Increasing expenditure accounts:

001.7010.0400	Other Expenses	\$4,000
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**BE IT FURTHER RESOLVED**, that the City of Batavia shall be named a sponsor of the 2017 Picnic in the Park.

**Seconded by Councilperson Pacino and on roll call approved 8-1. Councilperson Christian voted no.**

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**#51-2017  
A RESOLUTION TO DISCONTINUE THE PUBLIC USE AND TO  
AUTHORIZE THE  
COUNCIL PRESIDENT TO SIGN AGREEMENTS FOR THE SALE OF THE  
PROPERTIES AUCTIONED ON MARCH 18, 2017**

**Motion of Councilperson McGinnis**

**WHEREAS**, the City foreclosed on 29 Brooklyn Ave, Colorado Ave Rear, Hull Park, and 46 Swan 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 18, 2017 at 10:00 a.m.; and

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

Property	Highest Bidder	Highest Bid
1) 29 Brooklyn Ave	Michael Garofalo	\$4,700
2) Colorado Ave Rear	Neil Brennan	\$100
3) Hull Park	David Swartz	\$300
4) 46 Swan St	Ray Felski	\$8,000

**NOW THEREFORE, BE IT RESOLVED**, by the City 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 properties, subject to purchasers' execution of Contracts of Sale that are satisfactory to the City Attorney's Office.

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

Councilperson Christian asked why 46 Swan couldn't be sold to the highest bidder. Council President Jankowski explained that it was a conflict of interest. Mr. Van Nest noted that, as part of the City Code, this is considered a prohibited contract and thus is not allowed.

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**#52-2017**

**A RESOLUTION TO INTRODUCE AN ORDINANCE AMENDING CHAPTER 190 ENTITLED "ZONING" OF THE CITY OF BATAVIA MUNICIPAL CODE TO AMEND THE ZONING MAP OF THE CITY OF BATAVIA AND TO SCHEDULE A PUBLIC HEARING**

**Motion of Councilperson Christian**

**BE IT RESOLVED** that a proposed Ordinance entitled "**AN ORDINANCE AMENDING CHAPTER 190 ENTITLED "ZONING" OF THE CITY OF BATAVIA MUNICIPAL CODE TO AMEND THE ZONING MAP OF THE CITY OF BATAVIA**" is introduced before the City Council of the City of Batavia, New York; and

**BE IT FURTHER RESOLVED** that copies of the aforesaid proposed Ordinance 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 Ordinance at the City Hall, One Batavia City Centre, Batavia, New York, at 7:00 P.M. on Monday, April 24, 2017; 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 five days prior thereto.

**Seconded by Councilperson Tabelski and roll call approved 8-1. Councilperson McGinnis voted no.**

**ORDINANCE #002-2017**

**AN ORDINANCE AMENDING CHAPTER 190 ENTITLED “ZONING” OF THE CITY OF BATAVIA MUNICIPAL CODE TO AMEND THE ZONING MAP OF THE CITY OF BATAVIA**

**SECTION 1. AMENDMENT OF THE ZONING MAP OF THE CITY OF BATAVIA TO REZONE PREMISES FROM A I-1 DISTRICT AND R-2 DISTRICT TO A C-2 DISTRICT.**

**PREMISES BEING MORE RECENTLY DESCRIBED AS ALL THAT TRACT OR PARCEL OF LAND**, situate in the City of Batavia, County of Genesee and State of New York and is more particularly described as follows:

**BEGINING** at a point in the north right-of-way line of East Main Street (NYS Rte #5) said point being the southeast corner of lands conveyed to PR & D Automotive Wholesalers of Genesee County, by Deed recorded in the G.C.C.O. Liber 498 of Deeds, page 277, Said point also being the intersection formed by the aforesaid north right-of-way of E. Main Street and the westerly line of lands conveyed to Batavia Gardens Association,

- 1) Westerly, along the north line of East Main Street a distance of 366.30 feet to a point in the southwest corner of lands conveyed to William Moore by deed recorded in the G.C.C.O., Liber 901 of Deeds, Page 420,
- 2) Northerly at right angles to the north line of East Main Street, a distance of 121.77 feet to a point,
- 3) Westerly at right angle to the previous course and parallel to East Main Street, a distance of 104.98 feet to a point in the east line of lands conveyed to Michael Boorum by deed recorded in the G.C.C.O., Liber 60 of Deeds, Page 307,
- 4) Northerly along the aforesaid east line of Broomon, a distance of 246.60 feet to a point in the south line of the Consolidated Rail Corporation – Attica Branch, and continuing north an additional 66+/- feet to a point in the north line of said Rail Corporation lands, which forms a combined distance of 312.6+/-,
- 5) Easterly along the north line of lands of belong to the Consolidated Rail, a distance of 450+/- feet to a point,
- 6) Southerly through lands of the Consolidated Rail and continuing southerly and along the west line of lands of the Batavia Gardens Association, a distance of 518.73 feet to the point and place of beginning. and

**PREMISES BEING MORE RECENTLY DESCRIBED AS ALL THAT TRACT OF PARCEL OF LAND**, situate in the City of Batavia, County of Genesee and State of New York, being part of Lot 8, Section 8, Township 12, Range 1 of the Holland Land Company’s land, bounded and described as follows:



**COMMENCING** at a point on the northerly line of East Main Street at the southeasterly corner of land conveyed to PR & D Automotive Wholesalers of Genesee County, Inc., by deed recorded in the Genesee County Clerk's Office in Liber 498 of Deeds, at page 277, said point also being the southeasterly corner of land formerly owned by the State of New York Police Barracks; thence northerly at an interior angle of 93° 55' 49" with the northerly line of East Main Street, and along the easterly line of said PR & D Automotive Wholesalers of Genesee County, Inc.'s land, a distance of 452.56 feet to a point on the southerly line of land formerly owned by Consolidated Rail Corporation, being the northeasterly corner of said PR & D Automotive Wholesalers of Genesee County, Inc.'s land, and the southeasterly corner of land conveyed to Richard E. Donk and Patti Donk by deed recorded in the Genesee County Clerk's Office in Liber 642 of Deeds, at page 209, said point also being the true point and place of beginning for the parcel to be described; thence

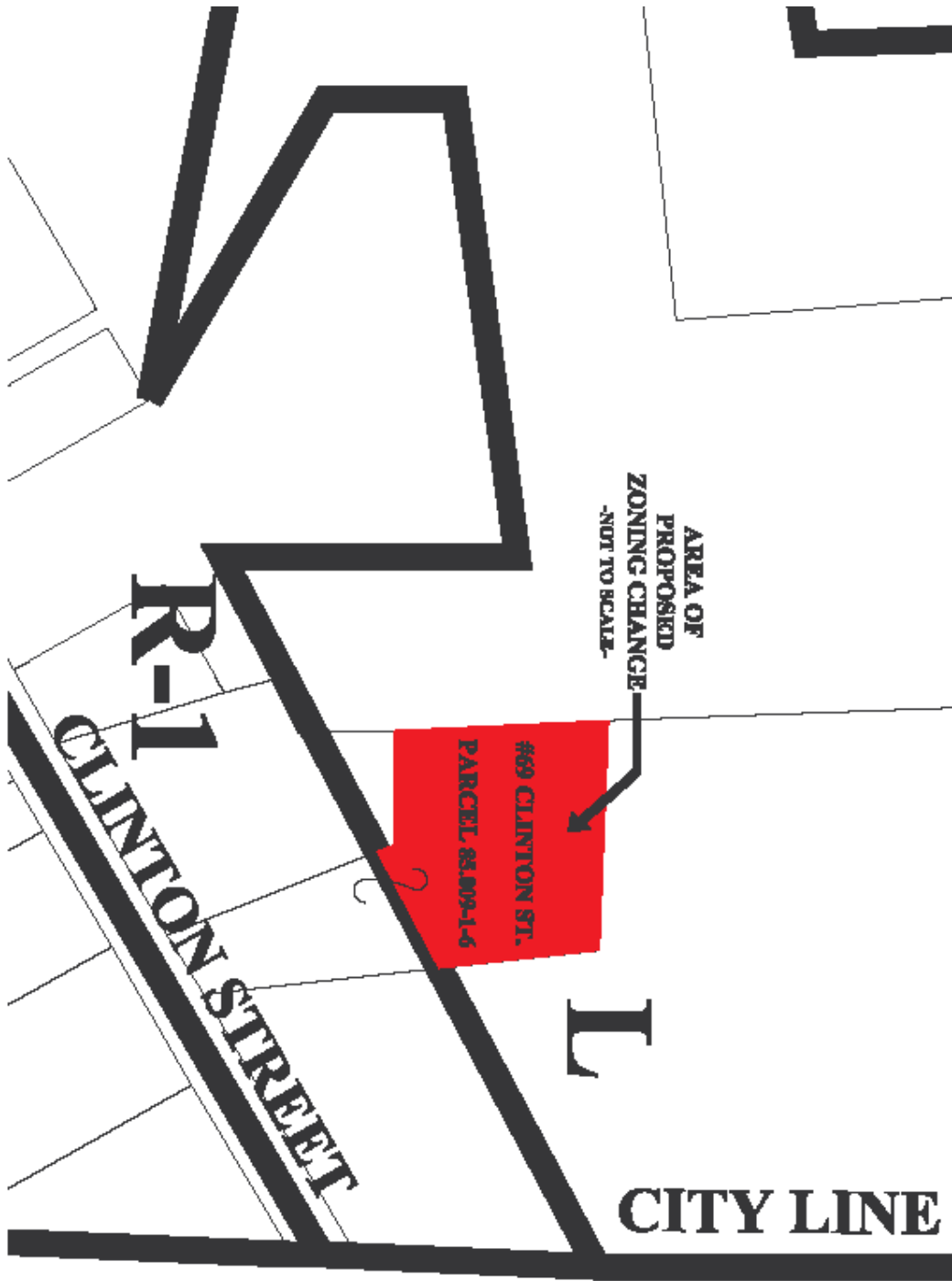
- 1) Northerly along the easterly line of said Donk's land, a distance of 66.17 feet to the northeasterly corner of the aforementioned Donk's land; thence
- 2) Easterly at an interior angle of 88° 58' 00" with the last described course, a distance of 29.51 feet to a point; thence
- 3) Easterly at an interior angle of 177° 50' 05" with the last described course, a distance of 199.23 feet to a point, said point being the northwesterly corner of land conveyed to Charles J. Pero by deed recorded in the Genesee County Clerk's Office in Liber 623 of Deeds, at page 103; thence
- 4) Southerly at an interior angle of 89° 17' 28" with the last described course, and along the westerly line of said Pero's land, a distance of 66.00 feet to the southerly line of Consolidated Rail Corporation's land as aforementioned, said point also being the northwesterly corner of land conveyed to Joseph Heale and Helen C. Heale by deed recorded in the Genesee County Clerk's Office in Liber 401 of Deeds, at page 658; thence
- 5) Westerly at an interior angle of 90° 42' 37" with the last described course, and also along the said Consolidated Rail Corporation's land, a distance of 198.62 feet to a point; thence
- 6) Westerly at an interior angle of 182° 38' 30" with the last described course and continuing along the southerly line of said Consolidated Rail Corporation's land, a distance of 25.63 feet to the point and place of beginning. Course (6) forming an interior angle of 90° 33' 20" with Course (1).

**INTENDING** to describe parcels of land designated as #661 East Main Street, #665 East Main Street and #679 East Main Street, City of Batavia, being further identified as SBL #085.013-01-22, SBL #085.013-01-23.1, and SBL #085.013-1-24.

The Zoning Ordinance of the City of Batavia, New York, dated and adopted July 25, 1973, and the Zoning Map of the City of Batavia, New York, dated and adopted September 24, 1973 (Said map being part of said Ordinance), as amended, are hereby further amended for the purpose of re-zoning the premises described above from an I-1 District and R-2 District to a C-2 District:

## **SECTION 2. EFFECTIVE DATE**

This Ordinance shall take effect immediately after the date of passage and in accordance with law.



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**#53-2017**

**A RESOLUTION TRANSFERRING \$5,000 FROM FACILITIES RESERVE TO THE GENERAL FUND FOR THE PURPOSE OF CONDUCTING AN APPRAISAL OF REAL PROPERTY**

**Motion of Councilperson Tabelski**

**WHEREAS**, the City Council has identified potential real property for the development of a police station which is privately owned; and

**WHEREAS**, prior to considering the purchase of any real property due diligence is required to include, but not limited to, the value of real property for purpose of determining a purchase price; and

**WHEREAS**, it is necessary to conduct an appraisal of real property prior to determining an acceptable purchase price; and

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

Effective April 10, 2017, amend the 2017-18 budget by decreasing the following account:

001.0001.0511.2106	Facilities Reserve	(\$5,000)
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Increasing expenditure accounts:

001.3120.0439.2106	Police Repair & Maintenance Facilities Reserve	\$5,000
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**Seconded by Councilperson Briggs and on roll call approved 9-00.**

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**#54-2017**

**A RESOLUTION TO AMEND THE 2017/2018 BUDGET AND ENTER INTO AN AGREEMENT WITH O'CONNELL ELECTRIC FOR THE PUMP STATION ELECTRICAL UPGRADE PROJECT**

**Motion of Councilperson Pacino**

**WHEREAS**, the City of Batavia approved in the 2017/2018 budget the use of reserve funds in the amount of \$242,000 for the Pump Station Electrical Upgrade Project; and

**WHEREAS**, the City of Batavia has solicited bids for the Pump Station Electrical Upgrade Project for the control panel at West Main, River, and Naramore Lift Stations, new electrical service and panel at the Industrial and Lehigh lift stations and SCADA communication upgrades at several other lift stations; and

**WHEREAS**, two (2) bids were received on March 7, 2017, and O’Connell Electric was the lowest responsible bidder in the amount of \$284,766.00; and

**WHEREAS**, the entire project is now projected to cost approximately \$357,966; and

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Batavia authorize the City Manager to amend the 2017/2018 budget as follows:

Revenue	003.0003.0511.2130	Appropriated reserves	\$116,000
Expense	003.0003.0105.1602	Construction Work in Progress	\$116,000

**BE IT FURTHER RESOLVED**, by the City Council of the City of Batavia that a contract is hereby awarded to O’Connell Electric in the amount of Two Hundred Eighty- Four Thousand Seven Hundred Sixty-Six dollars (\$284,766.00) for the pump stations electrical upgrades for the Pump Station Electrical Upgrade Project.

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

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**Meeting adjourned at 8:30 PM.**

**Respectfully submitted,**

**Heidi J. Parker  
Clerk-Treasurer**