

**CITY OF BATAVIA  
BUSINESS MINUTES  
MAY 8, 2017**

The regular business meeting of the City Council was held Monday, May 8, 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 Briggs led the Lord's Prayer and the Pledge of Allegiance.

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

The Council President assigned the regular agenda items.

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**Communications**

Western Regional Off Track Betting Corp submitted a liquor license. There was no objection from the police department. Council approved.

Brighton Securities requested to hold a Shred Day on Friday, May 19<sup>th</sup> from 12:00 – 3:00pm at 212 East Main St parking lot for free document destruction and disposal. Council approved.

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**Council President's Report**

Council President Jankowski announced the next regular City Council Conference meeting would be held Monday, May 22, 2017 in the City Hall Council Board Room, 2<sup>nd</sup> Floor, City Centre.

Mr. Molino recognized Captain Daniel Herberger for his filling of the position of fire chief for 16 months. Mr. Molino thanked him for his service from December 2015 to April 2017. He noted that Captain Herberger successfully met the demands of that position. Captain Herberger noted that he would miss working with the management team so closely and that he was able to do his job with everyone's help.

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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.

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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 the committee on city awards had met and made their choices. She mentioned the upcoming BID events and that their sponsors were helping with the costs. Councilperson Bialkowski noted that he attended the BID breakfast and commented on their enthusiasm. He also noted that the parade committee was moving forward. Councilperson Tabelski stated that he attended the last GAM meeting on 4/20/17 and a number of topics came up relating to the City including getting ready for the next census. Councilperson Christian noted that the annual City yard sale would be on June 24<sup>th</sup> and 25<sup>th</sup> and information can be found on Facebook for Batavia City Wide Yard Sale.

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### **Public Comments**

Ashley Champion, representative from Nixon Peabody, noted that there were a lot of questions relating to the City's goals and visions for the property that DePaul was looking to develop and the City's housing needs. She noted that both the comprehensive plan and housing study are much further along than expected and felt it made sense to table the DePaul application until that information was received. She formally requested Council to table their decision on the rezoning to get more information as the comprehensive plan and land study were being finalized.

George Galliford, rental property owner on Tracy Ave and S. Spruce St, didn't think houses should be built on prime agricultural land and suggested not taking prime taxable property and put it into tax exempt housing. Mr. Galliford felt the PILOT was a joke and the projected payment was too low. He noted that the City already has Manor House, 400 Towers, DePaul, and Washington Towers and this wasn't the best use of our land resources. He explained that Batavia draws more than its fair share of tax exempt housing and

suggested spreading it around the County. He didn't think the City needed it and didn't know where it would stop.

John Roach, 116 Grandview Ter, noted that there is another 55 unit project being planned and another 47 at Ellicott Station. He asked where the people would come from to fill these units since we already have a 7% vacancy rate. He explained that even if Council kills the project today there will still be 100 units to fill.

Marty MacDonald, City Church, encouraged everyone to come and take a look at St. Anthony's and it's open Tuesday nights for basketball. He noted that he had a chance to meet Mr. Fuller and he took a different view of the proposed DePaul project. He noted that he owned rental property and didn't think the City had an overabundance of nice places to go. He noted that the current DePaul property was done with excellence and they would be paying four times the taxes the City is already getting at that location. He felt that Batavia wouldn't be staying the same for long because so many great things are coming this way and he was a proponent of the project.

Jacqueline Fields, 555 East Main St, noted that she lives at DePaul and they provided her with a comfortable apartment that offered security both physically and emotionally. She noted that they provide assistance all the time and another DePaul would be a great asset to the community.

Linda Aguirre, 555 East Main St, noted that she was incredibly grateful to DePaul for the opportunities they have offered her.

Quentin Call, 6372 Main Rd, Stafford, noted that he was in favor of DePaul. He noted that he worked on several projects for them and without exception, their properties become an asset of the community. He stated that he could only assume they do their studies before selecting a site and thinks that commercial is the right zoning for that area. Mr. Call noted that even an industrial company would probably request a PILOT and he understood the challenged of these types of decisions but thought it was in the City's best interest to go ahead with this project.

John Kril, 224 N Spruce St, noted that he now lives in his own apartment with the help of DePaul.

Edith Hill, 555 East Main St, noted that she lived in a DePaul property for 38 years and it's the best place she could be.

Angie Misiti, 269 State St, noted that there is no place to go. She explained that she was once where Council all is and when she looked for a new place to go her family didn't like the places they looked at in Batavia. Mrs. Misiti noted that she likes her apartment but they need a plan and if they have to leave there's no good places to go. She noted that she isn't old enough to go to the Manor or a nursing home and she is looking for that in-between

home. She told Council not to be afraid to just go for it and they needed something different. She explained that her friends asked her to speak for them, they didn't want to be hidden and asked Council to think of them.

John Gerace, 8795 Rollin Circle, thanked Council for holding these meetings and stated that he didn't want the gateway to Batavia to be a low-income housing project. Mr. Gerace wondered how Mr. Molino could know that no industrial company would come to that property and thus changing the zoning would be appropriate. He stated that he didn't get calls on a daily basis requesting apartments but that he was all for helping out seniors, vets and the less needy but this wasn't the right project for them. He felt the City needed the money from taxes and didn't need another low income property especially on Main St.

Ellery Reaves, 5130 E Main St Rd, County Mental Health Director, noted that projects like DePaul will become more and more important and will be a bonus for folks who need the help. He noted that DePaul had done an excellent job and they stand by what they've done. He asked Council to take a humanitarian perspective.

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

Councilperson Pacino noted that some day she will need a house with a ramp or a bathroom downstairs but can't afford to change their home because they don't work anymore. She explained they will need somewhere to go, there are lovely apartments for young people but there are more boomers than anyone else and if she thought stores or factories were coming in she'd think differently about this project. But, big business isn't going there but rather going to the industrial parks. She didn't think they could make the zoning decision right now and thought Council should wait.

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### **Unfinished Business**

Councilperson Christian was concerned about the house on South Jackson St that was destroyed by fire collapsing and the possible effects on the students at Jackson Elementary. Mr. Molino noted that the property was slated for court later that month and putting up fencing to keep people out was discussed.

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**#55-2017**

**A RESOLUTION ESTABLISHING THE CITY OF BATAVIA AS LEAD AGENCY UNDER THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (“SEQR”) FOR AN AMENDMENT TO THE ZONING MAP FOR RE-ZONING A SECTION OF THE R-2 RESIDENTIAL DISTRICT AND I-1 INDUSTRIAL DISTRICT TO C-2 COMMERCIAL DISTRICT AND DETERMINING SIGNIFICANCE UNDER SEQR**

**Motion of Councilperson Tabelski**

**WHEREAS**, the City of Batavia has proposed to amend the zoning map to rezone a section of land at 661 and 665 East Main Street from to I-1 Industrial District to C-2 Commercial District and 679 R-2 Residential District to C-2 Commercial District; and

**WHEREAS**, the amendment of the City’s zoning map with respect to the foregoing parcels is an Unlisted 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 Short Environmental Assessment Form has been completed for the Action, a copy of which is attached hereto as Schedule A; and

**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

**NOW, THEREFORE, BE IT 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 zoning map; and

**BE IT FURTHER RESOLVED**, that the City Council having reviewed a completed Short 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

**BE IT FURTHER RESOLVED**, the City Council 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.**

**Councilperson Tabelski made a motion before the vote to table until August when they would have more information. The motion was seconded by Councilperson Christian but on roll**

**call failed 4-5. Councilpersons Tabelski, Pacino, Canale and Christian were in favor of the tabling.**

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**#56-2017**

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

**Motion of Councilperson Christian**

**WHEREAS**, an 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

**WHEREAS**, City Council held a public hearing on said proposed Ordinance on Monday, April 24, 2017 pursuant to Public Notice duly published in the Batavia Daily News;

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Batavia that said proposed Ordinance #002-2017 be and the same is hereby adopted.

**Seconded by Councilperson Tabelski and roll call failed 3-6. Councilpersons Tabelski, Pacino, and Christian voted in favor of the resolution.**

**Discussion** – Councilperson Canale asked Mr. Molino to explain the resolution. Mr. Molino noted it was just to change the zoning of that property. Councilperson Canale stated that he had never wrestled with an issue like this one and he could see the argument from both sides. He noted that the majority of the remarks to him had been against the project even though he knew Council wasn’t charged with approving the project but rather the change in zoning. Council President Jankowski noted there were two sides of the argument on the project but the resolution was about the zoning and Council needed to only consider that when voting. Councilperson Tabelski felt that the notion that we need to keep the zoning as industrial was hard to justify. He noted that there had been no history of industrial at that property and the land was currently being used for other than industrial. He reminded everyone that Batavia Gardens supported the rezoning and the rezoning would align the property with its neighbors. He noted that if nearby residents had concerns he would think they would be the most concerned with industrial. He stated that the County Planning Board supported the request and to ignore their expertise was a disservice. He asked why wait when we have someone who is willing to invest \$25 million into our community. He felt we needed to be more welcoming and it made no sense to turn our backs on the project now unless there was a compelling reason. Council President Jankowski felt it was just unfortunate that the timing was out of sync since the comprehensive plan wasn’t done yet. Councilperson Christian reminded Council that there would also be an increase in water and sewer rents if the

project went through in addition to the increased taxes. Councilperson Canale stated that if we waited for the comprehensive plan what would stop DePaul from coming back at that point to propose the project again. Mr. Van Nest noted that they could re-file their request.

**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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**#57-2017**

**A RESOLUTION ADOPTING THE TREE MANAGEMENT PLAN**

**Motion of Councilperson Viele**

**WHEREAS**, the City Council of the City of Batavia recognizes that the City needs a Tree Management plan and received an Urban and Forestry Grant for a City-wide Tree Management Plan; and

**WHEREAS**, the City Council of the City of Batavia was presented on April 24, 2017, with the Tree Management Plan; and

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Batavia hereby adopts the proposed Tree Management Plan; and

**BE IT FUTRHER RESOLVED**, that the Tree Management Plan is a document working towards improving the City of Batavia by managing the forestry on public lands, primarily the street right-of-way and park lands in the City of Batavia; and

**BE IT FURTHER RESOLVED**, that the adoption of the Tree Management Plan are consistent with the City’s comprehensive plan for the management of City forestry.

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

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**#58-2017**

**A RESOLUTION REGARDING THE EXPLORATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM AND ENTERING INTO AN ADMINISTRATION AGREEMENT WITH THE MUNICIPAL ELECTRIC AND GAS ALLIANCE (MEGA)**

**Motion of Councilperson Tabelski**

**WHEREAS**, the New York State Public Service Commission (“NYSPSC”), on April 21, 2016, adopted an Order authorizing cities, towns and villages within the State to create Community Choice Aggregation (“CCA”) Programs, by themselves or in concert with other municipalities (hereinafter “NYSPSC Order Authorizing CCAs”); and

**WHEREAS**, establishing a Community Choice Aggregation Program allows a municipal government to aggregate the energy supply needs of its residents and businesses, and to negotiate and enter into energy supply contracts with Energy Service Companies (“ESCOs”) on behalf of these citizens to obtain lower-cost energy prices, often at a fixed or predictable cost, as well as environmental benefits, and opportunities to pursue community-based energy initiatives; and

**WHEREAS**, City of Batavia seeks to explore CCA as a potential opportunity for energy consumers within the City because of the potential benefits a CCA would produce for residential and small business owners, through the joint, aggregated provision of energy supplies and value-added services at better prices due to the market power of the aggregation; and

**WHEREAS**, the NYSPSC Order Authorizing CCAs specifically states that municipalities are permitted to engage a third party CCA Administrator to assist in the development and implementation of a CCA Program, including the eventual solicitation and management of energy supply agreements for CCA customers; and

**WHEREAS**, the Municipal Electric and Gas Alliance (“MEGA”), a not-for-profit Local Development Corporation established in New York State, seeks to create one or more regional CCA(s) to aggregate customers from multiple municipalities throughout a given region in the State, which will enable MEGA to leverage a broad customer base to obtain competitively priced energy contracts thereby yielding greater savings and other benefits to CCA customers; and

**WHEREAS**, MEGA contemplates supporting the creation and implementation of these regional CCAs, in accordance with the NYSPSC Order Authorizing CCAs, in its capacity as a third-party CCA Administrator for those municipalities seeking to form CCAs; and

**WHEREAS**, MEGA further seeks to provide information, advice, public outreach, consumer education assistance, support for competitive bid solicitation, competitive supplier selection and monitoring of New York State regulations to municipalities considering forming a CCA; and

**WHEREAS**, MEGA, since its inception in 1998, has gained the experience necessary to perform the services of CCA Administrator, having successfully managed energy procurement aggregation programs for hundreds of New York State municipalities, saving taxpayers millions of dollars through competitive public bidding of energy supplies and services; and

**WHEREAS**, MEGA’s generic plans for procurement of energy supply reflects an understanding of CCA opportunities for City of Batavia, as well as market and regulatory conditions representing the best practices in the industry; and

**WHEREAS**, City of Batavia seeks to engage MEGA as the CCA Administrator, to assist in its efforts to better understand, educate the public on, and develop a Program to enable, a CCA; and

**WHEREAS**, MEGA would be engaged by City of Batavia as a provider of professional services requiring special and technical skills, expertise and knowledge, therefore the contract for these services is exempt from competitive bidding requirements contained in New York General Municipal Law § 103; and

**WHEREAS**, in the event City of Batavia decides to authorize a CCA, City of Batavia is interested in joining together with other CCAs in its region, through the MEGA aggregation, to leverage a broader customer base to obtain cost savings and other benefits for residents; and

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council President is hereby authorized to sign a Community Choice Aggregation Administration Agreement with MEGA, which incorporates the following terms:

1. City of Batavia will retain MEGA to assist with efforts to explore the potential benefits to this community of creating a CCA here, and in educating the public and local officials on CCAs. As CCA Administrator MEGA will assist the community in exploration of City City's potential participation in a CCA Program and development of plans for the implementation of the CCA Program, as required by the NYSPSC Order Authorizing CCAs.
2. In the event City of Batavia opts to proceed with the creation of a CCA, MEGA would serve as The City's CCA Administrator throughout the formation and implementation of the CCA Program.
3. Prior to City of Batavia taking the steps required to pass a local law authorizing CCA, MEGA will assist the City in CCA Program development, including informational and educational campaigns required to inform City of Batavia's decision to create the CCA, and in development of CCA Program documents and plans which comply with NYSPSC regulations, in accordance with the terms set forth in the CCA Administration Agreement between MEGA and City of Batavia.
4. City of Batavia agrees that, should it ultimately decide to adopt a Local Law to authorize and create a CCA, it will continue to engage MEGA's services as Administrator of the new CCA, in accordance with the terms of the Agreement.
5. As CCA Administrator, following the City of Batavia creation of a CCA, MEGA will assume responsibility for the organization and implementation of the CCA, by preparing and soliciting Requests for Proposals ("RFP"s) seeking energy suppliers willing to enter into Energy Supply Agreements ("ESA"s), negotiating such agreements in accordance with the terms of this agreement and/or other local enactment by the City, and overseeing implementation, cancellation, renewal, and review of ESAs throughout the life of the CCA.
6. While MEGA, as CCA Administrator, will assume responsibility for operation of the CCA and will comply with all relevant provisions of State law, including the NYSPSC Order

Authorizing CCAs, City of Batavia understands that it is ultimately responsible for ensuring its CCA is compliant with State regulations, as stated by the NYSPSC in its Order Authorizing CCAs. MEGA and City of Batavia intend for there to be a relationship of cooperation and transparency which ensures that all sides are able to fulfill their obligations under the law, the NYSPSC Order, the CCA Administration Agreement, and any other local law enacted or contract adopted by the City regarding the CCA.

**BE IT FURTHER RESOLVED**, that by adopting this resolution and signing the CCA Administration Agreement, City of Batavia is in no way obligating itself to proceed with the formal creation of a CCA. If City of Batavia determines to proceed with the creation of a CCA, City of Batavia would be required to adopt a local law to do so, and would at that time need to comply with all standard procedural requirements for local law adoption, including the State Environmental Quality Review Act (SEQRA), and with the NYSPSC Order Authorizing CCAs.

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

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**#59-2017**

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

**Motion of Councilperson Briggs**

**WHEREAS**, The Police Department 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; and

**NOW, THEREFORE, BE IT RESOLVED**, by the City 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:

- 2009 Dodge Durango VIN - 1DH8B38P19F712755
- 2013 Ford Police Interceptor VIN - 1FAHP2MK3DG227157

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

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**#60-2017**

**A RESOLUTION TO WAIVE RESIDENCY REQUIREMENT**

**Motion of Councilperson Canale**

**WHEREAS**, City Council of the City of Batavia has the authority to waive the residency requirement as established in the Batavia Code, Article II, § 22-9 if it is so determined that waiving of such requirement is in the best interest of the City of Batavia; and

**WHEREAS**, it has been determined that it is in the best interest of the City of Batavia that the residency requirement for current employee Nicole McGinnis be waived; and

**NOW, THEREFORE, BE IT RESOVLED**, by the City Council of the City of Batavia that said waiver be granted for the above named employee.

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

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**#61-2017**

**A RESOLUTION TO ENTER INTO AN AGREEMENT WITH E&R GENERAL  
CONSTRUCTION, INC. FOR 2017 INFRASTRUCTURE IMPROVEMENTS  
VINE STREET WATERMAIN AND ELM STREET SANITARY SEWER  
INFRASTRUCTURE IMPROVEMENT PROJECT**

**Motion of Councilperson McGinnis**

**WHEREAS**, a project to furnish and install approximately 1,400 linear feet of 8” PVC sanitary sewer main, sanitary sewer laterals, and fittings on Elm Street from East Avenue to North Street, and 2,375 linear feet of watermain, water valves, hydrants, water service replacements, and appurtenances along Vine Street from East Avenue to East Main Street, Chase Park from Vine Street to Elm Street, and Elm Street from Chase Park to East Avenue. Project includes milling and paving Elm Street and water valve replacement at various locations in the City of Batavia; and

**WHEREAS**, a project to replace the partially collapsed storm culvert on Lehigh Avenue has been budgeted in the 2017/2018 Budget utilizing Chips Funds in the amount of \$50,000 is similar to the sewer work on Elm Street; and

**WHEREAS**, a competitive bid was made by E&R General Construction , Inc. for the replacement of sanitary sewer, water main, water services, milling and paving, and sidewalks as specified in the contract document titled 2017 Infrastructure Improvements, Contract No. 2017-1; and

**WHEREAS**, E&R General Construction, Inc. is the lowest responsible bidder (\$1,022,590.00); and

**WHEREAS**, the entire project cost for the sewer culvert on Lehigh Avenue is approximately \$89,000.00; 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 | 001.0001.3501      | Consolidated HWY Aid           | \$39,000 |
| Expense | 001.8140.0459.9405 | General Fund Storm Sewer CHIPS | \$39,000 |

**BE IT FURTHER 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 E&R General Construction, Inc. in the amount of \$1,111,590.00 for infrastructure improvements and for the sewer culvert on Lehigh Avenue.

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

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**#62-2017**

**A RESOLUTION AUTHORIZING AGREEMENT WITH NEW YORK STATE  
DEPARTMENT OF TRANSPORTATION FOR PE/DESIGN, AND R.O.W.  
INCIDENTALS FOR THE CITY OF BATAVIA HEALTHY SCHOOLS CORRIDOR**

**Motion of Councilperson Canale**

**WHEREAS**, a project for the Reconstruction of Sidewalks for Liberty Street from East Main Street (Route 5) to Morton Avenue, and Washington Avenue from Ross Street to Bank Street, City of Batavia, Genesee County, P.I.N. 4755.93 (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 PE/Design and R.O.W. Incidentals; 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 PE/Design and R.O.W. Incidentals for the Project or portions thereof; and

**BE IT FURTHER RESOLVED**, that the sum of \$135,016 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 Pacino and on roll call approved 9-0.**

\* \* \*

**#63-2017**

**A RESOLUTION DESIGNATING THE CITY MANAGER AS THE CERTIFYING OFFICER FOR THE NYS CDBG STORMWATER CAPITAL PLANNING GRANT #82CP127-16**

**Motion of Councilperson McGinnis**

**WHEREAS**, that in accordance with the National Environmental Policy Act of 1969 (NEPA) and the related authorities listed at 24 CFP Part 58, the City Council of the City of Batavia announces its intent to conduct an environmental review of Citywide Stormwater Capital Improvement Planning project; and

**NOW THEREFORE BE IT RESOLVED**, that the City Council designates Jason Molino, City Manager as the Certifying Officer, responsible for all activities associated with the environmental review process to be completed in conjunction with the NYS CDBG project number 82CP127-16; and

**BE IT FURTHER RESOLVED**, that the City Council hereby determines that the Stormwater Capital Improvement Planning project is an Exempt Action under NEPA (24CFR58.34a) and is a Type II Action under SEQRA (6NYCRR Section 617.5) and no further review will be required.

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

\* \* \*

**#64-2017**

**A RESOLUTION AUTHORIZING THE CITY COUNCIL PRESIDENT TO SIGN AN AGREEMENT WITH DONOR BY DESIGN GROUP LLC TO PROVIDE CONSULTING SERVICES TO PREPARE CAPITAL CAMPAIGN FEASIBILITY STUDY FOR THE DOWNTOWN HEALTHY LIVING CAMPUS**

**Motion of Councilperson Bialkowski**

**WHEREAS**, Over the past year the Genesee Area YMCA and United Memorial Medical Center (UMMC) have developed a partnership with community leaders including the City of Batavia, to evaluate the feasibility of a comprehensive, multi-purpose health campus on a 10 acre site in the center of Downtown Batavia, and

**WHEREAS**, the proposed healthy living campus has the potential to have a transformative impact on the revitalization of Downtown Batavia and will provide Genesee County with a first class facility offering holistic, multi-generational health services that address disease prevention, wellness, nutrition, rehabilitation and therapy for the mind and body.; and

**WHEREAS**, the City has received grant funds from the USDA Rural Development agency to complete a feasibility study of a multi-purpose health campus; and

**WHEREAS**, the Genesee Area YMCA, received and reviewed five submittals for a Capital Campaign Feasibility Study and interviewed planning firms to lead the planning process; and

**WHEREAS**, Donor By Design Group LLC has been recommended by Genesee Area YMCA for the project; and

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Batavia hereby authorizes the City Council President to execute a Consulting Services Agreement with Donor By Design Group LLC, for consulting services not exceed \$25,000.

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

\* \* \*

**#65-2017**

**A RESOLUTION TRANSFERRING \$10,000 FROM THE LIABILITY AND CASUALTY RESERVE FUND TO THE GENERAL FUND UNASSIGNED FUND BALANCE**

**Motion of Councilperson Christian**

**WHEREAS**, pursuant to General Municipal Law 6-n the City of Batavia has an established Liability and Casualty Reserve fund for payments and costs related to judgments, actions or claims against the City of Batavia; and

**WHEREAS**, the City of Batavia has incurred costs in a liability deductible for a liability claim that was paid out to claimant by Selective Insurance Company of America on March 24, 2017; and

**WHEREAS**, the City Council is desirous of transferring \$10,000 of Liability and Casualty reserve restricted fund balance to the General Fund unassigned fund balance to assist with the expenditure as a result of the incurred costs in defense of the City and to be paid to Selective Insurance Company of America; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Council of the City of Batavia effective March 31, 2017, does hereby transfer \$10,000 from the Liability and Casualty Reserve Fund to the General Fund; and

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

Expense

|                  |  |          |
|------------------|--|----------|
| 1.1315.0470.2104 | Administrative Services Judgments and Claims | \$10,000 |
|------------------|--|----------|

Revenue

|               |  |          |
|---------------|--|----------|
| 1.1.0511.2104 | Appropriated Reserves Liability and Casualty | \$10,000 |
|---------------|--|----------|

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

\* \* \*

### **MOTION TO ENTER EXECUTIVE SESSION**

#### **Motion of Councilperson Pacino**

**WHEREAS**, Article 7, Section 105(1)(h), of the Public Officer's Law permits the legislative body of a municipality to enter into Executive Session to discuss "...the proposed acquisition, sale, or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof...".

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

**\* \* \***

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

**Respectfully submitted,**

**Heidi J. Parker  
Clerk-Treasurer**