



**BATAVIA CITY COUNCIL
BUSINESS MEETING**

**Monday, November 9, 2020
City Council Board Room, City Hall, 2nd Floor
At 7:00 p.m.**

AGENDA

- I. Call to Order
- II. Invocation – Councilperson Bialkowski
 - a. Moment of Silence – Honorable Judge David Saleh
- III. Pledge of Allegiance
- IV. Approval of September 2020 Financials
- V. Approval of October 2020 Minutes
- VI. Assignment of Agenda Items
- VII. Communications
 - Council President Report
 - a. Announcement of the next City Council Conference Meeting to be held on Monday, November 23, 2020 at 7:00 p.m. at the City Hall Council Board Room, 2nd Floor, City Centre
- VIII. City Attorney’s Report
- IX. City Manager’s Report
- X. Committee Reports
- XI. Public Comments
- XII. Council Responses to Public Comments
- XIII. Unfinished Business
- XIV. New Business

#75-2020

A Resolution Establishing The City Of Batavia As Lead Agency Under The State Environmental Quality Review Act (“SEQR”) And Issuing A Negative Declaration

- #76-2020** **A Resolution To Adopt An Ordinance Amending Chapter 190 Entitled “Zoning” Of The City Of Batavia Municipal Code To Amend I-1 Industrial Zone To Included Public Garage Business With Special Use Permits**
- #77-2020** **A Resolution Accepting Public Dedication Of Carolwood Drive Extension Also Known As Clinton Gardens Subdivision Part 21A**
- #78-2020** **A Resolution For Approval Of Contract Increase For Ellicott Trail Project**
- #79-2020** **A Resolution To Enter Into An Agreement With New Wave Energy Corporation For The Purchase Of Natural Gas**
- #80-2020** **A Resolution Amending the 2021-21 General Fund Budget to Recognize National Grid Urban Corridor Grant Funds on Behalf of Savarino Companies LLC And The Ellicott Station Project**
- #81-2020** **A Resolution Authorizing The Adoption Of The LGS-1 Retention And Disposition Schedule**
- #82-2020** **A Resolution To Amend The 2020-2021 Police Department Budget To Reflect The Receipt Of A Stop-DWI Grant Amendment In The Amount Of \$5,000 To Address The Crimes Of Driving While Intoxicated And/Or Driving While Ability Impaired By Drugs During Specified Crackdown Periods**
- #83-2020** **A Resolution, Acceptance Of Rotary Grant And Budget Amendment To The 2020-2021 Youth Bureau Budget To Reflect The Receipt Of Funds**
- #84-2020** **A Resolution Entering Into An Agreement For Application Software And Support Services With Tyler Technologies For EnerGov Software**

XV. Executive Session...Real Estate and Employment Matters

XVI. Adjournment

#75-2020

**A RESOLUTION ESTABLISHING THE CITY OF BATAVIA AS LEAD AGENCY
UNDER THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (“SEQR”)
AND ISSUING A NEGATIVE DECLARATION**

Motion of Councilmember

WHEREAS, the City of Batavia has proposed to amend the Batavia Municipal Code §190-15, and §190-37 to include public garages in I-1; and

WHEREAS, this amendment of the City’s zoning ordinance Section §190-15, and §190-37, is 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

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 Batavia Municipal Code; and

BE IT FURTHER 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 Chapter 190; and

BE IT FURTHER RESOLVED, that the City Council of the City of Batavia, having reviewed the SEQR environmental assessment form and supporting documents hereby issues a negative declaration on this unlisted action in accordance with 6 NYCRR §617.6; and

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

**Seconded by Councilmember
And on roll call**

#76-2020

**A RESOLUTION TO ADOPT AN ORDINANCE AMENDING CHAPTER 190
ENTITLED “ZONING” OF THE CITY OF BATAVIA MUNICIPAL CODE TO
AMEND I-1 INDUSTRIAL ZONE TO INCLUDED
PUBLIC GARAGE BUSINESS WITH SPECIAL USE PERMITS**

Motion of Councilmember

BE IT RESOLVED that a proposed Ordinance entitled “AN ORDINANCE AMENDING CHAPTER 190 ENTITLED “ZONING” OF THE CITY OF BATAVIA MUNICIPAL CODE TO AMEND I-1 TO INCLUDED PUBLIC GARAGE BUSINESSES BY A SPECIAL USE PERMIT IN 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 held 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, October 26, 2020; and

BE IT FURTHER RESOLVED that the City Clerk published a public notice in the official newspaper of the City of said public hearing at least five days prior thereto; and

BE IT FURTHER RESOLVED that the City Council Adopts Ordinance #-2020 entitled an Ordinance Amending Chapter 190 Entitled “Zoning” of the City of Batavia Municipal Code to amend I-1 to include public garage businesses by a special use permit in the City of Batavia.

**Seconded by Councilmember
and roll call**

ORDINANCE #2-2020

AN ORDINANCE AMENDING CHAPTER 190 ENTITLED "ZONING" OF THE CITY OF BATAVIA MUNICIPAL CODE TO INCLUDE PUBLIC GARAGES IN AN I-1 DISTRICT

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

SECTION 1.

190-15. I-1 Industrial Districts

- C. Uses permitted by special use permit.
- (1) Junkyards, salvage and scrap processing, outside storage.
 - (2) Uses which may cause a danger to the public due to the hazards of fire and explosion.
 - (3) Automobile service stations.
 - (4) Live/work units. Live/work units must comply with § 190-37, Subsection J, entitled "Standards applicable for all special use permits."
 - (5) Brew pub, micro brewery. Brew pubs and micro breweries must comply with § 190-37, Subsection J, entitled "Standards applicable for all special use permits."
 - (6) Public storage rental units/buildings with or without outside storage.
 - (7) **Public garages for the storage, adjustment or repair of motor vehicles.**

190-37. Special Use Permits.

E. Automobile service stations; garages; drive-in restaurants. Automobile service stations and/or **garages for the storage, adjustment or repair of motor vehicles**, drive-in restaurants and other similar uses where specific attention and consideration must be given to traffic generation and the disruption of traffic flow as well as the danger to the general public due to hazards by fire and explosion, may be permitted by special use permit in C-2, 1-1 and 1-2 Districts, provided that:

(1) A site plan shall be prepared to show the location of buildings, parking areas, and driveways. In addition, the site plan shall show the number and location of fuel tanks to be installed; the dimensions and capacity of each storage tank; the depth the tanks will be placed below the ground; the number and location of pumps to be installed; the type of structure and accessory buildings to be constructed; the location, height, and lighting power of proposed lighting standards; and the manner in which buffering is to be provided.

(2) Automobile service stations and drive-in restaurants shall have the following yard restrictions:

- (a) A minimum lot size of 15,000 square feet with a minimum width of 125 feet.

(b) Minimum front and side yard areas of 25 feet with a minimum rear yard of 35 feet.

(c) Maximum lot coverage of 20%.

(d) Maximum building height of one story or 18 feet.

(3) Driveways at service stations, drive-in restaurants and other uses providing drive-in service shall not be less than 20 feet nor more than 24 feet in width at any point. Driveways must be at least 20 feet from any side lot line and 50 feet from the intersection of street lines. No more than two driveways shall be permitted for each 125 feet of street frontage.

(4) The entire area of the site traveled by motor vehicles shall be hard surfaced.

(5) Any repair of motor vehicles shall be performed in a fully enclosed building, and no motor vehicle shall be offered for sale on the site. No motor vehicle parts or partially dismantled motor vehicles shall be stored outside an enclosed building.

(6) Accessory goods for sale may be displayed on the pump island and the building island only. The outdoor display of oil cans and/or antifreeze and similar products may be displayed on the respective island if provided for in a suitable stand or rack.

(7) All fuel pumps shall be located at least 20 feet from any street or property line and pumps shall have automatic shutoffs as approved by the Fire Department.

(8) Parking for service stations shall be provided in the ratio of one space per 100 square feet of floor area or fraction thereof in the principal building. Parking for drive-in restaurants shall be provided in the ratio of four spaces per 100 square feet of floor area or fraction thereof in the principal building.

(9) Where such parking areas abut a residential zoning district, they shall be screened by a buffer area not less than 10 feet in depth composed of densely planted evergreen shrubbery, solid fencing, or a combination of both which, in the opinion of the City Council will be adequate to prevent the transmission of headlight glare across the district boundary line. Such buffer screen shall have a minimum height of six feet above finished grade at the highest point of the parking area. The materials shall be in keeping with the character of the adjacent residential area.

(10) No automobile service station or public garage shall be located within 500 feet of any public entrance to a church, school, library, hospital, charitable institution or place of public assembly. The distance shall be measured in a straight line from the public entrance to the lot line nearest such entrance along the street line.

(11) No service station shall be located within 1,000 feet of an existing station on the same side of the highway. If a station is located at the intersection of two streets, this

distance shall be measured along both streets which abut the property.

(12) The areas shall be illuminated by nonglare lighting standards, focused downward,

and which, in the opinion of the City Council, will not create a nuisance to adjoining property owners.

(13) Drive-in restaurants for the purposes of this subsection are defined as eating establishments for customers normally arriving by motor vehicles, who are provided quick service, food and drink, and such customers obtain their own food and drink at a counter or other place for dispensing food therein and consume such food and drink upon the premises; or in such type restaurants where customers may be waited upon without leaving their vehicles by employees of the drive-in restaurant.

(14) The use of an automobile service station may include the sale or rental of vehicles with a special permit from the City Council. No vehicles shall be parked or displayed in the required front yards, and a detailed plot plan showing the areas in which such vehicles are to be stored shall accompany the application for the special use permit.

K. Standards applicable for all special use permits. The Planning and Development Committee may issue a special use permit only after it has found that all the following standards and conditions have been satisfied, in addition to any other applicable standards and conditions contained elsewhere in this chapter. [Added 11-9-1998]

(1) The location and size of such use and intensity of the operations involved in or conducted therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons therewith will not be hazardous and shall be in harmony with the orderly development of the district.

(2) The location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings, nor impair their value.

(3) The operation of any such use shall not be more objectionable to nearby properties than would be operation of any permitted use.

(4) The operation of any such use shall not cause undue noise, vibration, odor, lighting glare, and unsightliness so as to detrimentally impact adjacent properties.

(5) When a commercial or industrial special use abuts a residential property the Planning and Development Committee may find it necessary to require screening of sufficient height and density (i.e. fences, hedges, etc.) to reduce or eliminate the conflicting environmental conditions previously mentioned.

(6) Electrical disturbances shall not be caused so as to disrupt radio or television communications in the immediate area.

(7) The proposed use shall meet the off-street parking and loading requirements of similar uses.

(8) Appropriate on-lot drainage shall be provided so as to eliminate any potential on-site water-related problems. Also, the drainage systems created shall not detrimentally impact on adjacent properties.

(9) Traffic access to and from the use site, as well as on-lot traffic circulation, shall be designed so as to reduce traffic hazards.

(10) Such use shall be attractively landscaped.

(11) A special use permit shall not be issued for a use on a lot where there is an existing violation of this chapter unrelated to the use which is the subject of the requested special use permit, as determined by the Planning and Development Committee.

(12) As a condition of all special use permits, right of entry for inspection with reasonable notice shall be provided to determine compliance with the conditions of said permit.

(13) In addition to the general standards for special use permits as set forth herein, the Planning and Development Committee may, as a condition of approval for any such use, establish any other additional standards, conditions, and requirements it deems necessary or appropriate to promote the public health, safety and welfare, and to otherwise implement the intent of this chapter.

(14) The above standards are not intended to apply to uses whose regulation has been preempted by the state or federal government.

#77-2020

**A RESOLUTION ACCEPTING PUBLIC DEDICATION OF CAROLWOOD
DRIVE EXTENTION ALSO KNOWN AS CLINTON GARDENS SUBDIVISION
PART 21A**

Motion of Councilmember

WHEREAS, Batavia Homes and Development have constructed the infrastructure for Clinton Gardens Subdivision Part 21A; and

WHEREAS, The City of Batavia Planning and Development Committee has approved the Clinton Gardens Subdivision Part 21A; and

WHEREAS, the City has been provided with the record drawings and operation documents for Clinton Gardens Subdivision Part 21A from Batavia Homes and Development; and

WHEREAS, The City has inspected the installation and the utilities were constructed per the City of Batavia's specifications.

NOW, THEREFORE, BE IT RESOLVED, the Council of the City of Batavia determines it to be in the best interest for the City of Batavia to accept dedication of Carolwood Drive as per Clinton Gardens Subdivision Part 21A; and

BE IT FURTHER RESOLVED that the City Council of the City of Batavia shall fully accept the dedication of Clinton Gardens Subdivision Part 21A for public use as described above and all associated appurtenances.

**Seconded by Councilmember
and roll call**

#78-2020

A RESOLUTION FOR APPROVAL OF CONTRACT INCREASE FOR ELLICOTT TRAIL PROJECT

Motion of Councilmember

WHEREAS, on March 14, 2016 the City of Batavia City Council approved an inter-municipal agreement to split the local cost share of the Ellicott Trail project; and

WHEREAS, the City's original share was \$170,750; and

WHEREAS, it was determined that there was a contract increase needing to be resolved; and

WHEREAS, The City has a large enough balance in CHIPS monies to cover the increase.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Batavia is hereby approved that the City's portion of the contract increase in the amount of \$26,013 will be paid with CHIPS monies.

**Seconded by Councilmember
and on roll call**

#79-2020

**A RESOLUTION TO ENTER INTO AN AGREEMENT WITH NEW WAVE
ENERGY CORPORATION FOR THE PURCHASE OF NATURAL GAS**

Motion of Councilmember

WHEREAS, the City has advertised for competitive, sealed bids for the purchase of Natural Gas for 2020-23; and

WHEREAS, two (2) bids were received on October 1, 2020, and New Wave Energy Corporation was the lowest responsible bidder at \$3.28 per dekatherm.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that a contract is hereby awarded to New Wave Energy Corporation for the purchase of natural gas for city buildings.

**Seconded by Councilmember
and on roll call**

#80-2020

A RESOLUTION AMENDING THE 2020-21 GENERAL FUND BUDGET TO RECOGNIZE NATIONAL GRID URBAN CORRIDOR GRANT FUNDS ON BEHALF OF SAVARINO COMPANIES LLC. AND THE ELLICOTT STATION PROJECT

Motion of Councilmember

WHEREAS, the City of Batavia City Council approved a resolution in 2018 to entered into a grant disbursement agreement with National Grid for a grant of up to \$250,000 for the Ellicott Trail Urban Corridor Project located in the City of Batavia; and

WHEREAS, The City also entered into an undertaking agreement with Savarino Companies to perform public improvements on the Ellicott Station development property consisting of lighting, landscaping, seating, parking; and

WHEREAS, The City needs to amend the general fund budget to recognize the revenue and expense related to this project.

NOW, THEREFORE BE IT RESOLVED, That the city of Batavia City Council hereby authorizes the City Manager is hereby authorized to amend the 2020-2021 budget as set forth below.

Effective November 10, 2020 amend the general fund budget:

Increase expenditure account

Expense: A.01.6460 423 Project 423 Community Development – Contract services \$250,000

Increase revenue accounts

Revenue: A.00.0000.0000 2705 Project 201193 – Donations \$250,000

**Seconded by Councilmember
and on roll call**

#81-2020

A RESOLUTION AUTHORIZING THE ADOPTION OF THE LGS-1 RETENTION AND DISPOSITION SCHEDULE

Motion of Councilmember

WHEREAS, the Schedule MU-1, which was adopted by City Council on February 13, 1989, is expiring on December 31, 2020; and

WHEREAS, the Schedule MU-1 was the retention and disposition schedule used by cities, towns, villages, and fire districts; and

WHEREAS, the LGS-1 Retention and Disposition Schedule issued by the New York State Archives has replaced the MU-1 and will be used once adopted;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia that Retention and Disposition Schedule for New York Local Government Records (LGS-1), issued pursuant to Article 57-A of the Arts and Cultural Affairs Law, and containing legal minimum retention periods for local government records, is hereby adopted for use by all officers in legally disposing of valueless records listed therein; and

BE IT FURTHER RESOLVED, that in accordance with Article 57-A:

- (a) Only those records will be disposed of that are described in Retention and Disposition Schedule for New York Local Government Records (LGS-1), after they have met the minimum retention periods described therein;
- (b) Only those records will be disposed of that do not have sufficient administrative, fiscal, legal, or historical value to merit retention beyond established legal minimum periods.

**Seconded by Councilmember
and on the roll call**

#82-2020

A RESOLUTION TO AMEND THE 2020-2021 POLICE DEPARTMENT BUDGET TO REFLECT THE RECEIPT OF A STOP-DWI GRANT AMENDMENT IN THE AMOUNT OF \$5,000 TO ADDRESS THE CRIMES OF DRIVING WHILE INTOXICATED AND/OR DRIVING WHILE ABILITY IMPAIRED BY DRUGS DURING SPECIFIED CRACKDOWN PERIODS

Motion of Councilmember

WHEREAS, the City of Batavia Police Department has received additional grant funding in the amount of \$5,000 from THE GENESEE COUNTY STOP-DWI PROGRAM TO COMBAT IMPAIRED DRIVING BY FUNDING SPECIALIZED PATROL FUNCTIONS AND EQUIPMENT; 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 2020-2021 budget to cover various initiatives to combat alcohol and drug related traffic offenses:

Effective November 9, 2020 amend the 2020-21 budget:

Increase expenditure accounts

A 04.3120 0101 \$ 5,000.00

Increase revenue accounts

A 00.0000.0000 4389 \$ 5,000.00

**Seconded by Councilmember
and on roll call**

#83-2020

**A RESOLUTION, ACCEPTANCE OF ROTARY GRANT AND BUDGET
AMENDMENT TO THE 2020-2021 YOUTH BUREAU BUDGET TO REFLECT THE
RECEIPT OF FUNDS**

Motion of Councilmember

WHEREAS, the City of Batavia Youth Bureau has received a grant in the amount of \$6,000.00 for award period October 1, 2020 through April 30, 2021 from the Batavia Rotary Club & The Rotary Foundation to provide assistance to expand outdoor recreation and STEM education; and

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

WHEREAS, the City will gift all equipment from this grant to the Genesee County Parks who will assist in the maintenance and storage of program equipment once purchased.

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the City Manager is authorized to make the following budget amendment to the 2020-2021 budgets effective November 9, 2020 to cover various purchases:

Increase Revenue line:

000.0000.0000.2705	\$6,000.00
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Increase Expense lines:

001.7310.0201	\$1,680.00
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001.7310.0401	\$4,320.00
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Seconded by Councilmember

And on roll call

#84-2020

**A RESOLUTION ENTERING INTO AN AGREEMENT FOR APPLICATION
SOFTWARE AND SUPPORT SERVICES WITH TYLER TECHNOLOGIES FOR
ENERGOV SOFTWARE**

Motion of Councilmember

WHEREAS, the City of Batavia City Council has previously approved the purchase and installation of computer software to implement an integrated enterprise resource planning (ERP) system to utilize best practices, automated workflow, project management tools and other suitable applications; and

WHEREAS, the City completed a procurement process in conjunction with its consultants to purchase the software that would best fit the City's needs; and

WHEREAS, the City anticipates that EnerGov, a planning, permitting and licensing software will be used primarily by the Department of Public Works Bureau of Inspection to automate and connect critical processes, streamline workflow, improve communication, and increase productivity from desk to the field.

WHEREAS, the City has committed the necessary funds for the purchase, installation, interface and implementation of the EnerGov software system; and

WHEREAS, the City will purchase the EnerGov software at an amount not to exceed \$195,195, as part of the ERP Capital Project; and

WHEREAS, the ongoing maintenance and support for the software will be budgeted for annually.

THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia, approves the purchase of planning and permitting software from Tyler Technologies and authorizes the Council President to sign the Agreement for Application Software and Support Services.

**Seconded by councilmember
And on roll call**

MOTION TO ENTER EXECUTIVE SESSION

Motion of Councilperson

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..."and;

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..."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
and on roll call**