

**CITY OF BATAVIA
BUSINESS MINUTES
APRIL 10, 2023**

The regular business meeting of the City Council was held Monday, April 10, 2023 at 7:02 PM in the Council Chambers, One Batavia City Centre, Batavia, New York, with Council President Jankowski presiding.

Present were Council President Jankowski and Councilmembers Viele, Canale, McGinnis, Briggs, Schmidt, Richmond and Bialkowski.

Council President Jankowski called the meeting to order at 7:02 PM immediately following the special conference meeting.

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**#41-2023
A RESOLUTION APPOINTING DAVID TWICHELL TO THE SECOND WARD
COUNCILMEMBER POSITION**

Motion of Councilmember Richmond

WHEREAS, due to Councilmember, Patti Pacino’s resignation, a vacancy has occurred in the Second Ward Councilmember position effective March 28, 2023; and

WHEREAS, Section 3.3 of the City Charter provides that when a position of a Councilmember becomes vacant, pending the election and qualification of a Councilmember to fill the vacancy, the Council shall fill the vacancy temporarily by appointment of a qualified person, who shall be the same political affiliation as the Councilmember whose place has become vacant; and

WHEREAS, David Twichell of 166 Summit Street, Batavia, New York 14020 fulfills the qualifications to temporarily fill this vacancy.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that David Twichell is hereby temporarily appointed as the Second Ward Councilmember representing City of Batavia effective immediately, such appointment to remain in force until the election and qualification of the Second Ward Councilmember to fill the vacancy in accordance with the Charter of the City of Batavia.

Seconded by Councilmember Briggs and on roll call approved 8-0.

Heidi Parker, City Clerk, administered the oath of office to Mr. Twichell who then took his seat with the rest of Council.

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Public Comments

Sammy DiSalvo, 33 Walnut St, thanked the police for handling the recent situation near his home and noted that he felt very safe. He also noted that he is a runner and has been chased by dogs on two occasions. He wanted to remind people to keep the dogs on a leash and felt if it were kids being chased the outcome may have been different. He noted concern about the Creek Park properties being sold to BDC would be developed by another Section 8 housing company. He thanked Council for signing the letter regarding not having Section 8 housing at Ellicott Station so doesn't want another situation like that. He felt it was the last nice green space and there were other better things to do than turn that property into more housing. He agreed that Section 8 recipients also needed places to live but there are other needs as well. He suggested the Creek Park properties become a dog park or a place that all residents can use. He also suggested just keeping it as another park in the City since the only other central park is Austin. He asked Council to make stipulations for the BDC to make it beneficial to the whole population.

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Council Responses to Public Comments

Councilmember Bialkowski felt there was some merit for those concerns. Council President Jankowski noted that they learned a valuable lesson from the last housing project and will be cautious about what's to be done.

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Communications

Batavia Downs submitted an application for a 5K on Saturday, June 17th at 10am starting and finishing at the race track. Council approved.

The Alzheimer's Association submitted an application for a walk on Saturday, September 16th from 8am-2pm starting and ending at Centennial Park to raise funds for Alzheimer's awareness. Council approved.

Eden Café & Bakery, LLC submitted a liquor license application. There was no objection from the police department. Council approved.

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Council President’s Report

Council President Jankowski announced the next City Council meeting to be held on Monday, April 24, 2023 at 7:00 p.m. at the City Hall Council Board Room, 2nd Floor, City Centre.

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The minutes from the March 2023 meetings and the February 2023 financials were approved.

The Council President assigned the regular agenda items.

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City Attorney’s Report

Mr. Van Nest was absent and thus no report.

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City Manager’s Report

Mrs. Tabelski noted that she had a very positive meeting regarding Jackson Square, found several areas for cost savings, and went over some of the adjustments. She hoped for construction at the end of August. She noted that Theatre 56 has made substantial progress and expect a grand opening in September. She noted she was going through performance reviews for the entire office, looking to analyze lead pipes in the City, and Senator Borrello was hosting a town hall meeting the next evening at 6pm.

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Committee Reports

None.

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Unfinished Business

None.

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New Business

#42-2023

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SEEK FUNDING FROM
USDA RURAL DEVELOPMENT COMMUNITY FACILITIES LOAN PROGRAM**

Motion of Councilperson Richmond

WHEREAS, the City of Batavia has identified the need to construct a new Police Facility to address capacity concerns, building limitations, improve handicapped access, and to ensure quality police protection services can be executed now and into the future; and

WHEREAS, the City of Batavia has an opportunity to seek funding from the USDA Rural Development (USDA RD) Community Facilities Program as a potential funding source for said needs; and

WHEREAS, the City of Batavia has been awarded \$2,500,000 congressional grant award to be administered using the USDA RD Community Facility Program; and

WHEREAS, the process of applying for a loan and grant entails minimal additional effort from the City in terms making an application to secure the grant and to secure a favorable long-term loan interest rate in the event the City elects to secure this funding; and

WHEREAS, the process of applying for a loan does not obligate the City of Batavia in any way unless, and until a specific loan and grant offer has been extended to the City by USDA RD and the City of Batavia's approval of the offer is attained.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia, hereby grants permission for the City Manager to seek a funding opportunity from the USDA RD Community Facilities Loan Program and to execute any required application materials required by the Agency.

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

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#43-2023

**BOND RESOLUTION
CITY COUNCIL OF THE CITY OF BATAVIA**

April 10, 2023

**A RESOLUTION AUTHORIZING GENERAL OBLIGATION BONDS OF
THE CITY OF BATAVIA, GENESEE COUNTY, NEW YORK, TO
FINANCE THE COST OF THE CONSTRUCTION OF CAPITAL
IMPROVEMENTS CONSISTING OF A POLICE DEPARTMENT SAFETY
HEADQUARTERS, AS WELL AS AUTHORIZING THE ISSUANCE OF**

BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS.

Motion of Councilmember Bialkowski

WHEREAS, the **CITY OF BATAVIA** (the “City”), in the County of Genesee, by its City Council, has completed the advance planning, engineering and design of capital improvements to consist of the City’s Policy Headquarters (the “Design Project”);

WHEREAS, upon completion of the Design Project, the City, by its City Council, has determined it necessary for the City to move forward with the construction of capital improvements to consist of the City’s Policy Headquarters (the “Construction Project”);

WHEREAS, the estimated total cost of the Construction Project is \$15,500,000, which is to be financed in part by a loan from the United States Department of Agriculture (the “USDA”) in an amount not to exceed \$13,000,000 (the “USDA Loan”) and in part by a grant from the USDA not to exceed \$2,500,000 (the USDA Grant”);

WHEREAS, the City will issue general obligation bonds in an amount equal to the USDA Loan to provide security for the loan, which shall be issued in accordance with the New York State Local Finance Law (the “LFL”) and fully registered as to both principal and interest in the United States of America, acting through the Rural Housing Service.

BE IT RESOLVED, by the affirmative vote of not less than two-thirds of the total voting strength of the City Council of the City of Batavia, Genesee County, New York, as follows:

Section 1. The construction expenses (the “Construction Expenses”) in connection with the capital improvements consisting of the police department safety headquarters are hereby authorized at the estimated combined cost of \$15,500,000.

Section 2. The financing of the Construction Expenses, and the costs of issuance of such financing, (the “Specific Object or Purpose”), are hereby authorized at a maximum estimated aggregate cost of \$15,500,000.

Section 3. The Specific Objects or Purposes of the Construction Project are objects or purposes described in Section 11 of the LFL.

Section 4. The City Council, acting as Lead Agency under the SEQRA regulations of the State of New York, has previously issued a Negative Declaration for the Construction Project finding that the same will not have a significant adverse impact on the environment.

Section 5. The plan for the financing of such maximum estimated cost is by the issuance of general obligation serial bonds of the City in an aggregate principal amount not exceeding \$15,500,000 which is hereby authorized to be issued therefor pursuant to the LFL.

Section 6. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five (5) years.

Section 7. It is hereby determined that the period of probable usefulness of the Construction Project is twenty five (25) years, pursuant to Section 11.00(a)(11) of the LFL.

Section 8. The faith and credit of the City of Batavia, Genesee County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in every year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year.

Section 9. Subject to the provisions of this resolution and of the LFL, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the LFL, the powers and duties of the City Council pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the City Manager, the chief fiscal officer of the City. To the extent required by law, this Resolution shall also constitute a “Bond Anticipation Note Resolution” pursuant to the LFL.

Section 10. All other matters except as provided herein relating to the bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue bonds with substantially level or declining annual debt service, shall be determined by the City Manager, as the chief fiscal officer of the City. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the LFL, and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the LFL, as the City Treasurer shall determine consistent with the provisions of the LFL.

Section 11. The City Manager is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”) and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as “qualified tax-exempt bonds” in accordance with Section 265(b)(3)(B)(i) of the Code.

Section 12. The City Manager is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c12-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

Section 13. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- 3) Such obligations are authorized in violation of the provisions of the Constitution of the State of New York.

Section 14. The temporary use of available funds of the City, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the LFL, for the purpose or purposes described in Section 1 of this resolution. The City then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the date hereof) with the proceeds of the bonds authorized by Section 1 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 15. This resolution shall take effect immediately.

Section 16. This resolution or a summary hereof shall be published in full in the official legal newspaper of the City for such purposes, together with a notice of the City Clerk in substantially the form provided in Section 81.00 of the LFL.

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

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MOTION TO ENTER EXECUTIVE SESSION

Motion of Councilmember Viele

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;

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 Councilmember Briggs and on roll call approved 9-0. Council entered executive session at 7:25 PM and ended at 7:41 PM.

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Meeting adjourned at 7:42 PM.

Respectfully submitted,

**Heidi J Parker
Clerk-Treasurer**