

# **CITY OF BATAVIA BUSINESS MINUTES MAY 8, 2023**

The regular business meeting of the City Council was held Monday, May 8, 2023 at 7:11 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, Twichell, Canale, McGinnis, Briggs, Schmidt, Richmond and Bialkowski.

Council President Jankowski called the meeting to order at 7:11 PM immediately following the special conference meeting.

## **Public Comments**

John Roach, 116 Grandview Ter, had some questions about the Creek Park lease and wondered who ultimately would be responsible if someone got hurt on that land. He wondered if it would be the LLC, BDC or the City since the City created the BDC who created the LLC. He also noted that he supported the residency waiver for the fire chief.

James Simonds, 16 Ross St, gave some of his background, including some mental health situations which resulted in arrests, and stated he was concerned with mental health disabilities in Genesee County. He also felt there was room for improvement in the City neighborhoods, wanted to make them look nicer and wondered what the City was doing to clean them up. He further stated that he did not like the idea of the YMCA being turned into a parking lot.

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## **Council Responses to Public Comments**

Mr. Van Nest noted that the BDC was created by the City but they are separate entities and the license agreement spells out the responsible parties. He noted that the insurance requirements were consistent with the City's current requirements.

Brett Frank, DPW Director, noted that the City has two full-time code enforcement officers, an ordinance officer, and another part-time employee would be starting in the summer to address code compliance. Councilmember Richmond stated that he appreciated the efforts of the code officers because whenever he contacts them they take care of the situation. Councilmember Bialkowski suggested promoting more community support because we have some poor landlords who won't take care of their properties.

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## **Communications**

Brighton Securities submitted an application for their annual shred day on Friday, May 26<sup>th</sup> from 12-2pm at 212 East Main St for free document destruction and disposal for the public. Council approved.

EverPresent Church submitted an application for a carnival on Saturday, June 10<sup>th</sup> from 11am-3pm in the parking lot outside of the church. There would be games, food and vendors. Council approved.

The Batavia Business Improvement district requested to hold a cider walk on Saturday, June 17<sup>th</sup> from 4-8pm at the downtown businesses. They noted it would be similar to the wine walk but with cider. Council approved.

The Batavia Business Improvement district submitted an application for a concert series in Jackson Square on various Thursdays and Fridays in July and August from 7-9pm. Council approved.

The Batavia Business Improvement district requested to hold a boxcar derby on Saturday, August 26<sup>th</sup> from 8am-1pm on Ellicott Ave.

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## **Council President's Report**

Council President Jankowski announced the next City Council meeting to be held on Monday, May 22, 2023 at 7:00 p.m. at the City Hall Council Board Room, 2<sup>nd</sup> Floor, City Centre.

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The financials from March 2023 and the minutes from April 2023 were approved.

The Council President assigned the regular agenda items.

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## **City Attorney's Report**

Mr. Van Nest noted there was nothing specific to report at that time.

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## **City Manager's Report**

Mrs. Tabelski was absent so Mr. Fix provided a brief report noting that employees were completing performance reviews on all staff and the police facility was approximately

95% ready to go out for bid. He noted they were also working on the Jackson Square redesign and hoped to have that out to bid in June.

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### **Committee Reports**

Councilmember Bialkowski noted that he went to the EDC annual meeting, it was very well attended and there were excellent speakers. He also noted that the Memorial Day parade was moving along and asked Council to respond to him if they wished to participate.

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### **Unfinished Business**

None.

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### **New Business**

**#44-2023**

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

#### **Motion of Councilmember Viele**

**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 to the City of Batavia Audit Committee:

#### **City of Batavia Audit Committee**

#### **For the audit year ending 3/31:**

#### **Councilmembers:**

Bob Bialkowski

2024

Richard Richmond

2024

**Seconded by Councilmember Briggs and on roll call approved 8-1. Councilmember Bialkowski abstained.**

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**#45-2023**

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

**Motion of Councilmember Schmidt**

**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 to the Batavia Business Improvement District Board:

**Batavia Business Improvement District**

Patti Ann Pacino

April 24, 2026

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

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**#46-2023**

**A RESOLUTION TO DISCONTINUE THE PUBLIC USE AND TO AUTHORIZE THE  
COUNCIL PRESIDENT TO SIGN AGREEMENTS FOR THE SALE OF 11A AND 11B  
OF THE BATAVIA CITY CENTRE MALL**

**Motion of Councilperson Richmond**

**WHEREAS**, Geib Estates Corp., has offered the city of Batavia \$60,000 to purchase parcels 11A and 11B of Batavia City Centre Mall; and

**WHEREAS**, Geib Estates Corp., a New York corporation located in Batavia, New York owns multiple business and properties; and

**WHEREAS**, Geib Estates Corp., is looking to help develop parcels in the Batavia City Center Mall for future uses.

**NOW THEREFORE, BE IT RESOLVED**, by the Council of the City of Batavia, that it discontinues the public use of this property and authorizes the City Council President to sign a Purchase Agreement, and any other related documents, with Geib Estates Corp., to sell said properties for \$60,000.

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

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**#47-2023**

**A RESOLUTION TO WAIVE RESIDENCY REQUIREMENT**

**Motion of Councilmember McGinnis**

**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;

**WHEREAS**, it has been determined that it is in the best interest of the City of Batavia that the residency requirement for Josh Graham be waived.

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

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

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**#48-2023**

**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

**WHEREAS**, the Police Department desires to use the proceeds from selling the equipment listed below in order to offset the purchase of future equipment needs by placing the proceeds into the Police Equipment Reserve account.

**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:

2017 Ford Police Interceptor Utility VIN - 1FM5K8ARXHGD07105

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Batavia does hereby authorize the transfer of the proceeds from the sale of said equipment to the Police Equipment Reserve Fund.

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

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**#49-2023**

**A RESOLUTION TO ACCEPT THE TOWN OF BATAVIA'S MODIFICATIONS OF THE KINGS PLAZA PUMP STATION PROJECT AND TO AUTHORIZE THE CITY MANAGER TO EXECUTE THE NYSDEC BSP-5 FORM**

**Motion of Councilmember Canale**

**WHEREAS**, the Town of Batavia (Town) had originally planned on completing the Kings Plaza Pump Station and Force Main Upgrade Project (Project) in 2020, but due to COVID and increased pricing, the Project was put on hold until additional funding was obtained in December 2021; and

**WHEREAS**, during the same time, the Town's wastewater flows increased to approximately 1.2 – 1.4 million gallons per day (mgd), which exceeds the Town's current contractual limit of 0.85 mgd as established in the Wastewater Facility Agreement dated Feb 23, 2015 (Agreement) between the City of Batavia (City) and Town; and

**WHEREAS**, and the Town and City staff began discussions regarding the potential purchase of additional sewer capacity by the Town, in accordance with the Agreement; and

**WHEREAS**, the Master Sewer Meter upgrade improvements, as per the Wastewater Metering Agreement, dated Feb 23, 2015 (Metering Agreement), have not yet been completed by the City and whereas both City and Town staff agree that it is mutually beneficial for the Town to complete all of the Master Sewer Meter upgrade improvements as part of the Project; and

**WHEREAS**, the City initiated a Wastewater Headworks Study (Study) in the fall of 2021, and is currently collecting and analyzing various wastewater quality samples, and until the Study is completed and approved, the potential available additional capacity for the Town to purchase cannot be determined; and

**WHEREAS**, preliminary Study findings identified the need for an approximate 0.5mgd City future growth reserve and an approximate 0.5mgd allocation for permit and regulatory compliance, there is a limited amount of capacity that may be available for Town purchase, which is less than the current additional flows from the Town over and above the existing contractual flow limit; and

**WHEREAS**, based on the Town's projection of future growth it appears that the wastewater treatment capacity will need to be increased, at the Town's expense, to accommodate potential increased future wastewater flows; and

**WHEREAS**, City and Town staff have been meeting regularly to evaluate current flow conditions and develop potential alternatives to increase wastewater treatment capacity in accordance with the Agreement; and

**WHEREAS**, because the City and Town are mutually concerned about potential increased flows resulting from the proposed Project (design flows of 1.01mgd versus current flows of 0.54mgd) without a definitive plan to increase the wastewater treatment capacity and an

agreed purchase of additional capacity by the Town, the City is unable to approve the plans as designed and unable to execute the New York State Department of Environmental Conservation BSP-5; and

**WHEREAS**, the Town has proposed modifications (Town proposal letter dated April 5, 2023, attached) to the Project design, which will alleviate the increased flow concerns until a definitive wastewater treatment capacity upgrade plan is agreed upon and the Town purchases additional capacity, such that the City can approve the Project so that the current Project funding from NYS Office of Community Development is not lost.

**NOW THEREFORE, BE IT RESOLVED**, the Batavia Town Board hereby agrees to limit the flow from the Kings Plaza Pump Station before and after any improvements agreed upon by both parties are constructed, and not to exceed the existing 0.54 mgd daily average flow, until such time that a mutually agreed plan for wastewater treatment capacity increase is in place and the Town purchases additional capacity, and

**BE IT FURTHER RESOLVED**, that the Town agrees to make the following design modifications to the Project to ensure the 0.54 mgd average daily flow is not exceeded, until such time that a wastewater treatment capacity increase and purchase agreement is in place:

1. The new pumps will be installed with smaller impellers rated at only the same capacity as the existing pumps.
2. A monitoring system be installed and fully integrated with the City's SCADA system to allow all data to be continuously monitored at the wastewater and water treatment plants.

**BE IT FURTHER RESOLVED**, that the Town also agrees to the following:

1. If the capacity limit of 0.54mgd, average daily flow, is exceeded at the Kings Plaza Pump Station, daily monetary penalties will be levied by the City.
2. A new 12" force main will be installed from Kings Plaza Pump Station to River and South Main Streets and the City may inspect the project.
3. The upgrades at the Kings Plaza Pump Station will include a new Master Sewer Meter (mag type).

Upon resolution by the Town and the City, the City will authorize the City Manager to execute the NYSDEC BSP-5 form.

**BE IT FURTHER RESOLVED**, that once the Master Sewer Meter is installed and integrated by the Town at the Kings Plaza Pump Station, the Town will be billed by the City based upon the new meter flows in accordance with the Agreement.

**Seconded by Councilmember Schmidt and on the roll call approved 9-0.**

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#50-2023

**A RESOLUTION TO APPROVE AN ACCESS LICENSE AGREEMENT WITH CREEK PARK BATAVIA, LLC.**

**Motion of Councilmember Bialkowski**

**WHEREAS**, the City of Batavia requires use of property located on the Creek Park Brownfield Development site, and owned by the Creek Park Batavia, LLC. for access into the McCarthy Ice Arena; and

**WHEREAS**, the City of Batavia, its guests, and invitees shall use the Licensed Premises only for purposes of vehicular access to the City Parcel throughout the Term, as permitted by Licensor. Licensee shall not obstruct or impede access by Licensor or other authorized users of the CPB Parcel over and upon the Licensed Premises; and

**WHEREAS**, prior to accessing the Licensed Premises the City of Batavia shall provide Creek Park Batavia, LLC. proof of commercial general liability insurance coverage; and

**WHEREAS**, the Agreement between the City and Creek Park Batavia LLC. will be effective upon signature of the agreement and expire on December 31, 2030 unless sooner terminated.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council President for the City of Batavia is hereby authorized to sign a Access License Agreement.

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

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**MOTION TO ENTER EXECUTIVE SESSION**

**Motion of Councilperson Viele**

**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...".

**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...".

**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...”.

**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 Schmidt and on roll call approved 9-0.** Council entered executive session at 7:38 PM and ended at 8:10 PM.

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**Meeting adjourned at 8:11 PM.**

**Respectfully submitted,**

**Heidi J Parker  
Clerk-Treasurer**