

CITY OF BATAVIA BUSINESS MINUTES JULY 10, 2023

The regular business meeting of the City Council was held Monday, July 10, 2023 at 7:18 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, Richmond and Bialkowski. Councilmember Schmidt was absent.

Council President Jankowski called the meeting to order at 7:18 PM immediately following the conference meeting.

The financials from May 2023 and the minutes from June 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.

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City Manager's Report

Mrs. Tabelski noted that Empire Hemp is sitting on over \$300,000 of product and have had to lay off employees because of the trouble of being able to sell product because of restrictions set by the state. She noted that there has been a lot of developer interest at the Creek Park site for housing. Mrs. Tabelski explained they are finishing the capacity sale of sewer to the Town, bids for a few projects are out, and they continue to work with USDA on the police facility.

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New Business

#65-2023

**A RESOLUTION TO CONDUCT AN ENVIRONMENTAL REVIEW OF THE CITY OF
BATAVIA HOUSING REHABILITATION PROGRAM AND TO DESIGNATE THE
ASSISTANT CITY MANAGER AS THE CERTIFYING OFFICER**

Motion by Councilmember Canale

WHEREAS, the City of Batavia is applying for a CDBG Application; and

WHEREAS, that in accordance with the National Environmental Policy Act of 1069 (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 a single-family housing rehabilitation program; and

WHEREAS, the City of Batavia Council will also be conducting an environmental review pursuant to the State Environmental Quality Review Act.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia will conduct both NEPA and SEQR environmental reviews of the housing program.

BE IT FURTHER RESOLVED, that the City Council designates Erik Fix, Assistant 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 application.

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

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#66-2023

**A RESOLUTION TO ENTER INTO AN AGREEMENT
WITH LABELLA ASSOCIATES FOR GRANT WRITING SERVICES FOR THE
COMMUNITY DEVELOPMENT BLOCK GRANT AND TO AUTHORIZE A BUDGET
AMENDMENT FOR 2023/2024 FISCAL YEAR**

Motion by Councilmember McGinnis

WHEREAS, the City of Batavia is applying for a Community Development Block Grant of up to \$500,000 for the 2023 program year.

WHEREAS, The Federal assistance grant will be implemented to help income eligible owner-occupied, single-family home owners with essential home improvements; and

WHEREAS, the grant applications are due on July 28, 2023; and

WHEREAS, the City has a long-standing working agreement with LaBella Associates to provide multiple services including cost of preparing and filing the grant application as well as the SEQR and NEPA on behalf of the City; and

WHEREAS, the fees for this service is \$7,500 and a budget adjustment is necessary to utilize VLT funds for this service.

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 23/24 budget for grant writing services.

Increase Revenue:

A.00.0000.0000 3014	VLT Aid	\$7,500
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Increase expense:

A.01.6460 423	Community Dev. Contract Services	\$7,500
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Seconded by Councilmember Viele and on roll call approved 8-0.

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#67-2023

**A RESOLUTION TO ENTER INTO AN AGREEMENT
WITH LABELLA ASSOCIATES FOR GRANT WRITING SERVICES FOR THE
ENVIRONMENTAL PROTECTION FUND AND TO AUTHORIZE A BUDGET
AMENDMENT FOR 2023/2024 FISCAL YEAR**

Motion by Councilmember Viele

WHEREAS, the City of Batavia is applying for a Environmental Protection Fund Grant of up to \$500,000 for the 2023 program year; and

WHEREAS, The New York State Office of Parks, Recreation and Historic Preservation assistance grant will be implemented to help complete phase one of the Austin Park Master Plan renovations; and

WHEREAS, the grant applications are due on July 28, 2023; and

WHEREAS, the City has a long-standing working agreement with LaBella Associates to provide multiple services including cost of preparing and filing the online application; and

WHEREAS, LaBella associates has completed the Austin Park Master Plan in 2022 which includes new playground apparatus and upgrades to the pavilion; and

WHEREAS, the fees for this service is \$5,000 and a budget adjustment is necessary to utilize VLT funds for this service.

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 23/24 budget for grant writing services.

WHEREAS, the City Council of the City of Batavia has determined that continuing to own and maintain the David McCarthy Ice Arena provides wellness and recreational opportunities to citizens in the City; and

WHEREAS, the original “Ice Chiller” has come to the end of its useful life and is an outdated system running on R-22 refrigerant; and

WHEREAS, the City needs to replace the chiller and the estimated cost of replacement is \$2.5 M.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia to authorize the City Manager to amend the FY 23/24 budget to reflect revenue, from Genesee County, and the grant expense associated with applying for the New York State Climate Smart Communities Grant Program to replace the Chiller.

Increase Revenue:

A.00.0000.0000 2706	Unclassified Revenue	\$3,500
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Increase Expense:

A.01.6460 423	Community Development	\$3,500
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Seconded by Councilmember Canale and on roll call approved 8-0.

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#70-2023

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BATAVIA
AUTHORIZING THE CITY MANAGER TO SUBMIT A CLIMATE SMART
COMMUNITIES GRANT TO UPGRADE THE ICE RINK CHILLER AT THE DAVID
MCCARTHY MEMORIAL ICE ARENA**

Motion of Councilmember Briggs

WHEREAS, the City Council of the City of Batavia is requesting financial assistance from the New York State Climate Smart Communities Grant Program pursuant to the Environmental Conservation Law Article 54, Title 15; and

WHEREAS, the City of Batavia, owners of the rink, have an existing refrigeration system operating on R-22 Refrigerant, which has been phased out of production; and

WHEREAS, the system has had an increasing number of repairs, replacement and maintenance items that have been hard to procure and expensive when found; and

WHEREAS, The R-22 Chiller and associated equipment is approaching the end of its useful life and in need of immediate replacement; and

WHEREAS, the City of Batavia certifies that it has identified \$1,238,155.96 of matching funds from NYPA short-term financing and long-term bond financing pursuant to the requirements of the Environmental Conservation Law Article 54, Title 15.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia hereby authorizes Rachael J. Tabelski, City Manager to act on its behalf in submittal of an application through the Consolidated Funding Application for \$1,235,000, to upgrade the Ice Rink Chiller System at the David McCarthy Memorial Ice Arena.

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

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#71-2023

A RESOLUTION REFERRING THE PETITION TO REZONE 1, 3, AND 4 MIX PLACE TO THE PLANNING AND DEVELOPMENT COMMITTEE AND TO REFER A ZONING CODE UPDATE AMENDING CHAPTER 190-(C)(2)

Motion of Councilmember Viele

WHEREAS, the City Council is desirous of reviewing amendments to a zoning district classification pursuant to the Batavia Municipal Code (BMC) §190-51, in response to a petition from the City Manager’s Office requesting three parcels, 1, 3, and 4 Mix Place, to be re-zoned from R-1A (Residential District) to R-3 (Residential District); and

WHEREAS, The City Council is desirous of reviewing and amending zoning code Section 190-10(C)(2) to read: “Offices for attorneys, physicians, dentists, and other similar professionals, not exceeding four offices in a single structure”. Currently, the code reads: “Offices for attorneys, physicians, and/or dentists, not exceeding four offices in a single structure.”; and

WHEREAS, under the City Charter § 13-3 the City Planning and Development Committee shall have such powers and duties to serve in an advisory capacity and provide such advice as to assist the City Council in developing a strategy that interprets, plans and leads in the implementation of land use matters relating to public and private development within the City of Batavia; and

WHEREAS, General City Law – (GCL) § 27 provides City Council with the authority to refer matters to the Planning and Development Committee requesting reviews and recommendations regarding planning and development within the City of Batavia; and

WHEREAS, BMC § 190-51 provides that City Council may make zoning district classification changes pursuant to GCL § 83 after review and report on the proposed amendment by the Planning and Development Committee.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia hereby requests that the City Planning and Development Committee review a Petition to Re-Zone 1, 3, and 4 Mix Place to R-3 (Residential District), and review the proposed amendment to Section 190-10 (C)(2), and make a recommendation to the City Council for consideration within thirty days of referral.

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

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#72-2023

**A RESOLUTION TO APPROVE A LICENSE AGREEMENT WITH DEPEW
LANCASTER AND WESTERN RAILROAD**

Motion of Councilmember Richmond

WHEREAS, the City of Batavia requires use of the property located on Jackson Street and owned by Depew Lancaster and Western Railroad for access during the construction of an 8” water main; and

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

WHEREAS, prior to accessing the Licensed Premises, the City of Batavia shall provide Depew Lancaster and Western Railroad proof of commercial general liability insurance coverage; and

WHEREAS, the Agreement between the City and Depew Lancaster and Western Railroad will be effective upon signature of the agreement and shall be terminable upon no less than thirty (30) days’ notice served or given by either party.

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

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

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#73-2023

A RESOLUTION TO ESTABLISH AND UPDATE CURRENT CAPITAL PROJECTS

Motion of Councilmember Bialkowski

WHEREAS, the City of Batavia has included funds in its budget for capital projects and uses grant and reserve funds to complete projects.

NOW, THEREFORE, BE IT RESOLVED, that the following capital project be established and budget be adjusted as follows; and

BE IT FURTHER RESOLVED, the following project is authorized to be completed for

no more than the said estimated amount and may extend no later than March 31, 2024 and that this resolution should take effect immediately upon passage.

<u>PROJECT</u>	<u>PROJECT COST</u>	<u>FUNDING SOURCE</u>	<u>FISCAL YEAR</u>
<u>General Fund</u>			
Fairmont Avenue, Hart Street, Madison Avenue, and Norris Avenue Complete Street Project	\$650,000	CHIPs/STR	23/24

Second by Councilmember Viele and on roll call approved 8-0.

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#74-2023

A RESOLUTION TO SUPPORT THE SUBMISSION A NEW YORK MAIN STREET GRANT APPLICATION

Motion of Councilmember Twichell

WHEREAS, the New York State Office Community Renewal (NYSOCR) is offering New York Main Street grants for the 2023 program year; and

WHEREAS, the New York Main Street program provides funding for building and streetscape improvements; and

WHEREAS, the City of Batavia is an eligible applicant for the New York Main Street program; and

WHEREAS, the City of Batavia would like to apply for a New York Main Street Target grant funding for the 2023 program year to assist downtown building owners with improvements.

NOW THEREFORE, BE IT RESOLVED, that the City of Batavia Council does hereby enthusiastically support the submission of an application for the winter 2023 program year of the New York Main Street Program for up to \$500,000 in New York Main Target Area funding.

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

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#75-2023

RESOLUTION TO APPOINT MEMBERS TO VARIOUS CITY COMMITTEES/ BOARDS

Motion of Councilmember Canale

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 appointment(s) be made to the Batavia Business Improvement District Board:

Batavia Business Improvement District

Tammy Schmidt

April 24, 2026

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

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#76-2023

A RESOLUTION AUTHORIZING THE BATAVIA REVOLVING LOAN FUND GRANT AWARD AND AUTHORIZING EXECUTION OF A PARTICIPATION AGREEMENT

Motion of Councilmember McGinnis

WHEREAS, the City Council of the City of Batavia amended the Revolving Loan Fund Agreement on April 8, 2019; and

WHEREAS, according to the amendment, notwithstanding any other provisions of the Revolving Loan Fund Agreement, the Loan Fund may also, on a project specific basis and with City Council approval, make a grant for an eligible project or funding purpose within the City; and

WHEREAS, the City Council for the City of Batavia enacted a policy to allow for grant funds to be accessed for specific purposes including Brownfield Opportunity Area (BOA) advancement, City Priority Economic Development, and Building Improvements; and

WHEREAS, Center Street Smokehouse Inc. (“Owner”) has submitted a completed application for grant funds to the Batavia Development Corporation, the Batavia Development Corporation has acknowledged receipt of the application and application fee, received the deed to the property, the project financials, reviewed and scored the project, and advanced the project to the City Council of the City of Batavia to review; and

WHEREAS, the Owner intends to complete improvements of the property located at 20 Center St. Batavia, NY 14020 using funds to be provided through the program; and

WHEREAS, The City of Batavia will distribute grant funds to the Owner for the project in accordance with the terms and conditions of the City of Batavia Revolving Loan Fund Grant Policy dated June 14, 2019 and the Grant Agreement; and

WHEREAS, after evaluation of the application, based on the Grant Policy, the City of Batavia City Council finds that the award of the grant to be consistent with the policy and in the interest of the City of Batavia.

NOW, THEREFORE, BE IT RESOLVED that the City of Batavia City Council approves granting \$20,000 to the project; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City of Batavia City Council authorizes the City Council President to execute the Grant Agreement with the Owner.

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

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#77-2023

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BATAVIA
AUTHORIZING THE CITY MANAGER TO SUBMIT A CONSOLIDATED FUNDING
APPLICATION GREEN INNOVATION GRANT PROGRAM FOR A WATER METER
UPGRADE PROJECT**

Motion of Councilmember Bialkowski

WHEREAS, the City of Batavia owns and operates a municipal water system that includes water meters for residential, commercial, and industrial customers; and

WHEREAS, the City is desirous to upgrade meters to the latest technology that includes remote radio reads; and

WHEREAS, the City has invested in the replacement of customer meters and has replaced one-third of the meters across the City; and

WHEREAS, the New York State Environmental Facilities Corporation will offer grants to municipalities to help mitigate the effects of climate change through the Green Innovation Grant Program. Up to \$15 million has been made available for this round; and

WHEREAS, the City has estimated that the entire project will cost \$1,734,000 and will commit to a 25% local match; and

WHEREAS, the local match of \$434,000 will be funded through Water Fund Reserves.

NOW THEREFORE BE IT RESOLVED, that the City of Batavia approves the submission of a NYS Consolidated Funding Application Green Innovation Grant Program and commits \$434,000 in Water Fund Reserves as a match to the project; and

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized as official representative of the City to execute and submit a Consolidated Funding Application for Green Innovation Grant Program funding to the administrative agency for the Federal Fiscal Year 2023

program, all understanding and assurances contained therein, and is hereby directed and authorized to act in connection with the submission of the application and to provide such additional information as may be required.

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

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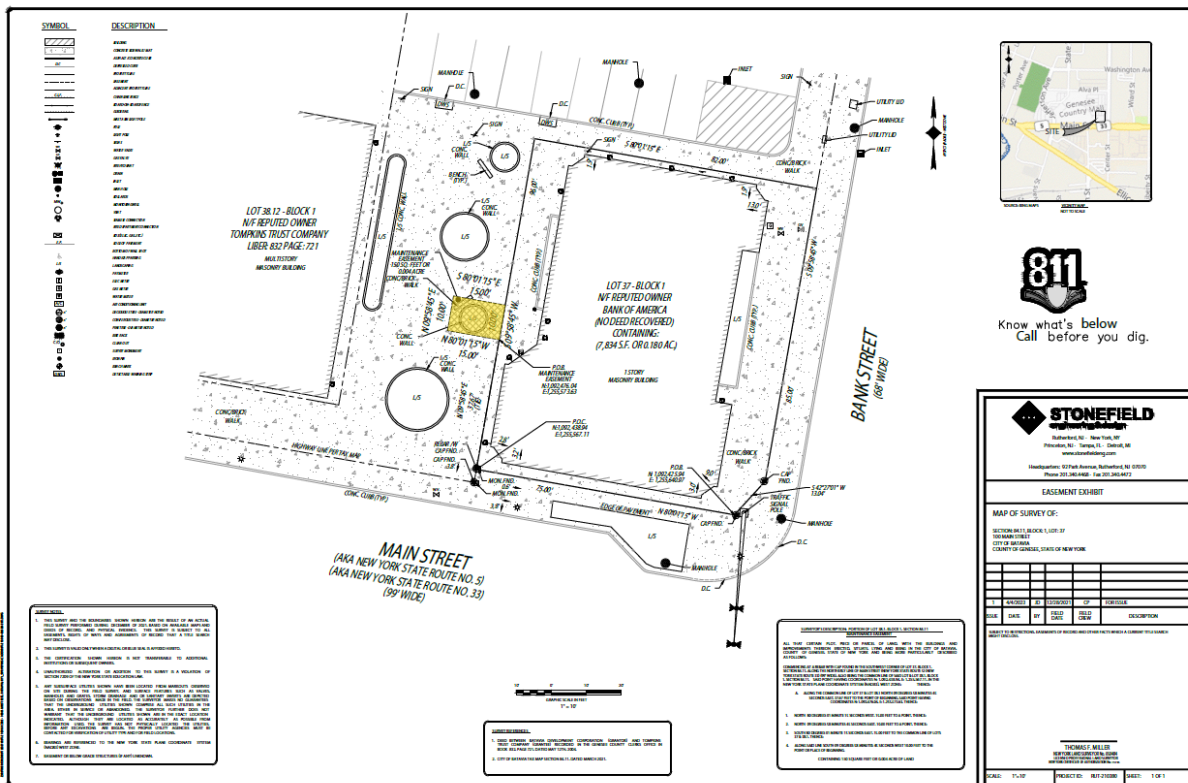
78-2023

A RESOLUTION TO AUTHORIZE THE CITY COUNCIL PRESIDENT TO EXECUTE AN EASEMENT AGREEMENT WITH BANK OF AMERICA, NATIONAL ASSOCIATION

Motion of Councilmember Briggs

WHEREAS, Bank of America, National Association is desirous to make upgrades to their existing exterior lighting by installing a light pole and fixture in the Courtyard of the City Centre parking lot between 90 and 100 Main Street.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia to hereby authorize the City Council President to execute the easement with Bank of America, National Association as stated in “Exhibit A” below.



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

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Meeting adjourned at 7:45PM.

Respectfully submitted,

**Heidi J Parker
Clerk-Treasurer**