

CITY OF BATAVIA BUSINESS MINUTES OCTOBER 10, 2023

The regular business meeting of the City Council was held Tuesday, October 10, 2023 at 7:22 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 7:22 PM immediately following the special conference meeting.

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The financials from August 2023 and the minutes from September 2023 were approved.

The Council President assigned the regular agenda items.

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City Attorney's Report

Mr. Van Nest noted there they continue to work on a variety of matters but there was nothing specific to report.

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City Manager's Report

Mrs. Tabelski noted that the police facility would go out to bid on October 12th and staff was working on six month budget reviews which were due by October 13th. She noted that potential dates were issued for budget review and to plan accordingly. Mrs. Tabelski explained that the City did not get a \$500,000 grant from USDA for tree planting and would be following up to see why they were denied. She noted that Councilmember McGinnis asked for a group to be formed to discuss other ways to raise revenues besides having to raise taxes. Councilmember McGinnis noted that he would like three councilmembers as part of the group with Council President Jankowski chairing the group, some financial members and maybe some regular citizens. He explained that there are properties that pay no tax but thought they should pay their fair share to cover police, fire and public works costs as they rely on their services but pay nothing for them. Mr. Van Nest noted that he would have to look at the specifics of what could be done as there are a lot of rules for this work group to consider.

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Unfinished Business

Mrs. Tabelski noted that she had received a letter from Tim Hens at the County about using the Environmental Bond Act fund towards water infrastructure. She asked Council if they were in support of issuing a letter to the state for use of \$3 million towards such purpose. Council agreed to sign the letter.

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New Business

#93-2023

A RESOLUTION TRANSFERRING FUNDS FROM UNASSIGNED FUND BALANCE TO VARIOUS RESERVE ACCOUNTS

Motion of Councilmember McGinnis

WHEREAS, pursuant to General Municipal Law 6-c and 6-j the City of Batavia has established various reserve funds; and

WHEREAS, the City of Batavia, for the fiscal year ending March 31, 2023, has assigned General Fund balance for funding various reserves; and

WHEREAS, the City has made significant strides in improving their equipment, infrastructure and buildings, by using capital improvement plans and vehicle replacement schedules; and

WHEREAS, the City is desirous to replace vehicles and equipment in each department based on replacement schedules; and

WHEREAS, the City has multiple facility projects, infrastructure and building projects that need to be addressed in the future; and

WHEREAS, the City wishes to continue to fund parking lot and sidewalk improvements; and

WHEREAS, the City will reserve funds for compensated absences and retirement reserves.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia does hereby transfer, consistent with the City’s Strategic Plan, the following amounts into the following reserves from the General Fund’s assigned fund balance:

Police Equipment Reserve	\$ 100,000
Fire Reserves	\$ 300,000

DPW Equipment Reserve	\$ 400,000
Ice Rink Reserves	\$ 150,000
Facility Reserve	\$ 400,000
Sidewalk Reserves	\$ 300,000
Compensated Absence Reserve	\$ 100,000
Retirement Reserve	\$ 100,000
Parking Lot Reserve	\$ 250,000

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

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#94-2023

A RESOLUTION TRANSFERRING \$75,000 FROM UNASSIGNED FUND BALANCE TO COMMITTED FUND BALANCE FOR ZONING CODE UPDATE AND FUTURE LAND USE PLANNING

Motion of Councilmember Canale

WHEREAS, the City Council would like to undertake land use planning and a zoning code update as recommended in the 2017 Comprehensive Plan Update; and

WHEREAS, zoning is the primary implementation tool to achieve desired future land use in the City; and

WHEREAS, the 2017 Comprehensive Plan Update outlined a future use land map where new zoning regulations will dictate the form and use of properties within the City; and

WHEREAS, to achieve the goals of the 2017 Comprehensive Plan Update the City will need to review and update the zoning code; and

WHEREAS, the City of Batavia, for the fiscal year ending March 31, 2013, has built an unassigned General Fund balance to 20% and funded various reserves; and

WHEREAS, the City Council can commit fund balance to specific project and undertakings and does so from time to time.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia does hereby transfer, consistent with the City’s Strategic Plan, \$75,000 from the General Fund Unassigned Fund Balance to Committed Fund Balance for the project of zoning code update and future land use planning.

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

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#95-2023

**A RESOLUTION ASSIGNING \$2 MILLION FROM UNASSIGNED SEWER FUND
BALANCE TO SLUDGE RESERVE**

Motion of Councilmember Richmond

WHEREAS, the City of Batavia is desirous to pay for the upcoming sludge removal at the Waste Water Treatment Plant with reserve funding; and

WHEREAS, from time to time the City needs to contract dredge and clean out the sludge ponds at the Waste Water Treatment Plant; and

WHEREAS, the current Sludge Reserve Fund currently has a balance of \$2.5 million; and

WHEREAS, to complete a project of sludge removal in aerated pond #2 the City needs to reserve more funding for the project; and

WHEREAS, the City can utilize unassigned fund balance in the Sewer Fund to build up the Sludge Reserve in anticipation of the project.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia does hereby transfer \$2 million from the Sewer Fund Unassigned Fund Balance to the Sludge Reserve for a future sludge removal project.

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

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#96-2023

**A RESOLUTION TO DECLARE SEQR TYPE II ACTION FOR REPLACEMENT OF
ICE RINK CHILLER AT THE DAVID MCCARTHY MEMORIAL ICE ARENA**

Motion of Councilmember Viele

WHEREAS, this notice is issued pursuant to 6 NYCRR Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review) of the Environmental Conservation Law; and

WHEREAS, The New York Power Authority and the City of Batavia, New York (the C/T/V) have entered into an Agreement for an Energy Efficiency, HVAC Project; and

WHEREAS, under the terms of the Agreement the chiller, evaporative cooler, brine pump and water heater recovery system will be replaced; and

WHEREAS, the project is a replacement project and does not involve any new construction, changes in land use, or changes in the service provided to the public; and

WHEREAS, The City Council of the City of Batavia will act as lead agency pursuant to the New York State Environmental Quality Review Act (“SEQRA”); and

WHEREAS, the proposed action described below is a Type II action, pursuant to 6 NYCRR 617.5(c)(2), and will not have a significant adverse effect on the environment; and

WHEREAS, pursuant to 6 NYCRR 617.5(c)(2) this project is a replacement, rehabilitation or reconstruction of existing equipment, on the same site.

NOW, THEREFORE, BE IT RESOLVED, that based on City Councils review, and in consideration of the criteria set forth in 6 NYCRR 617.5 identifying Type II Actions under SEQRA, the replacement of the chiller, evaporative cooler, brine pump and water heater recovery system is a Type II action under SEQR pursuant to 6 NYCRR Part 617.5(c)(2) and requires no further review.

Second by Councilmember Schmidt and on roll call approved 9-0.

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#97-2023

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BATAVIA
AUTHORIZING THE EXPENDITURE OF \$15,000 OF CREEK PARK COMMITTED
FUND BALANCE FOR THE ENVIRONMENTAL STUDY AND INVESTIGATION**

Motion of Councilmember Twichell

WHEREAS, resolution #91-2022 authorized the City of Batavia to contract with Benchmark Environmental Engineering & Science PLLC and TurnKey Environmental Restoration LLC. a professional service firm with a strong record of assisting municipalities and development companies in re-developing blighted brownfield sites, to prepare the limited Phase II Environmental Investigation on the Creek Park Area for \$10,800 using committed fund balance; and

WHEREAS, Benchmark Environmental Engineering & Science PLLC and TurnKey Environmental Restoration LLC. has merged with Roux; and

WHEREAS, the Phase II environmental exploration work was delayed until the Batavia Development Corporation took title to 60 Evens from the Town of Batavia therefore the work described in Resolution #91-2022 has not yet been completed; and

WHEREAS, the City now has authorization to conduct a Phase II on 60 Evens, as the ownership has transferred from the Town of Batavia to the Batavia Development Corporation; and

WHEREAS, the City of Batavia still has remaining committed fund balance of \$15,000 for the environmental study of the Creek Park Area; and

WHEREAS, to help facilitate redevelopment, the City needs to determine if the site is eligible for the Brownfield Cleanup Program (BCP) and associated tax credits; and

WHEREAS, the City of Batavia would like to engage Roux to prepare the limited Phase II Environmental Investigation on the Creek Park Area; and

WHEREAS, the City is seeking authorization to utilize the \$15,000 of committed fund balance with the contract with Roux in the amount of \$11,300 along with an additional contingency of \$3,700; and

WHEREAS, Genesee County has pledged to pay 1/3 of the proposed cost.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia authorizes the City Manager to execute a new agreement for environmental services for the Creek Park Area with Roux and use \$15,000 Committed Fund Balance designated for Creek Park for the expenses associated with these activities.

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

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#98-2023

A RESOLUTION AUTHORIZING THE CITY COUNCIL PRESIDENT TO SIGN AN AMENDED AND RESTATED DWYER STADIUM LEASE AND SUBLEASE AGREEMENT

Motion of Councilmember Canale

WHEREAS, the City of Batavia is the owner of Dwyer Stadium and the Batavia Regional Recreation Corporation (BRRC) operates and manages the Dwyer Stadium facility as outlined in the Dwyer Stadium Lease Agreement; and

WHEREAS, the BRRC has sublet the premises to CAN-USA Sports, LLC., to use the facility to play its home baseball games in the Perfect Game Collegiate Baseball League (PGCBL) at Dwyer Stadium; and

WHEREAS, CAN-USA Sports, LLC. has successfully operated for three seasons bringing in many different community activities to the park including dance team, high school baseball, festivals, music and kid friendly events; and

WHEREAS, the parties need to amend and restate the Lease and Sublease agreements and the City of Batavia shall agree to extend the lease agreement for three consecutive five (5) year periods after the first term with written notice from CAN-USA Sports, LLC; and

WHEREAS, CAN-USA Sports, LLC. agrees to pay the City of Batavia rent and capital improvement fees and to undertake specific improvements and upgrades at Dwyer Stadium as outlined in the lease agreement.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia that the Council President be and is hereby authorized to sign said Amended and Restated Dwyer Stadium Lease and Sublease Agreement as attached on behalf of the City of Batavia.

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

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#99-2023

A RESOLUTION REFERRING ZONING CODE AMENDMENTS TO THE PLANNING AND DEVELOPMENT COMMITTEE

Motion of Councilmember Bialkowski

WHEREAS, the City Council is desirous of reviewing potential amendments to Chapter 190 Zoning Article IX Subsection 190-37 Special use permits and Chapter 190 Zoning Subsection 190-11; and

WHEREAS, amend Chapter 190 Zoning Article IX Subsection 190-37 Special use permits and Chapter 190 Zoning Subsection 190-11 to permit professional office use in existing buildings, on properties, that meet specific standards; 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 potential amendments to Chapter 190 Zoning Article IX Subsection 190-37 Special use permits and Chapter 190 Zoning Subsection 190-11, and make a recommendation to the City Council for consideration within thirty days of referral.

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

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#100-2023

A RESOLUTION TO AMEND THE 2023-2024 POLICE DEPARTMENT BUDGET TO REFLECT THE RECEIPT OF A POLICE TRAFFIC SERVICES GRANT

Motion of Councilmember Briggs

WHEREAS, the City of Batavia Police Department has received a grant in the amount of \$ 14,256 from the New York State Governor’s Traffic Safety Committee to participate in the statewide Police Traffic Services Program. The goal is to increase seat belt usage and reduce dangerous driving behaviors in an effort to reduce serious injury and death from traffic crashes; and

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

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 2023-2024 budget effective October 1, 2023 to cover various traffic enforcement details:

Increase expenditure accounts:

A04.3120.3120.0101.199-100003 \$ 14,256.00

Increase revenue accounts:

A.00.0000.0000 4389-100003 \$ 14,256.00

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

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#101-2023

A RESOLUTION TO USE ICE RINK RESERVE FUNDS FOR AN EMERGENCY PURCHASE OF R22 REFRIGERANT AND OIL FOR THE ICE RINK CHILLER SYSTEM

Motion of Councilmember Viele

WHEREAS, pursuant to General Municipal Law 6-c, the City of Batavia has an established Ice Rink Capital Reserve Fund; and

WHEREAS, the Ice Rink Capital Reserve Fund has a current balance of approximately \$375,000.00; and

WHEREAS, the system needs 375 pounds of refrigerant at a cost of \$28,000.00, in addition \$17,900 in repairs; and

WHEREAS, this was not a budgeted item and is an emergency purchase.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia that the City Manager is hereby authorized the utilize Ice Rink Reserves of \$45,900.00 for emergency purchases.

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

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#102-2023

A RESOLUTION TO ENTER INTO AN AGREEMENT WITH ROCHESTER PIPELINE FOR CONSTRUCTION SERVICES FOR THE BANK STREET WATER PROJECT

Motion of Councilmember McGinnis

WHEREAS, The Council of the City of Batavia authorized a project for the replacement of a water main on Bank Street from Main Street to Washington Avenue; and

WHEREAS, a request for construction bids was released for a contractor to construct the project as specified in the project construction documents. The lowest responsible bidder is Rochester Pipeline of Rochester, New York.

NOW, THEREFORE, BE IT RESOLVED, be it resolved that City Council approves the award of a contract for construction for the Bank Street Water Main Replacement Project to Rochester Pipeline of Rochester, New York in the amount of \$566,988.00.

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

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#103-2023

A RESOLUTION TO ENTER INTO AN AGREEMENT WITH STEVE GENERAL CONTRACTOR INC. FOR CONSTRUCTION SERVICES FOR THE CITY CENTRE RENOVATIONS PROJECT

Motion of Councilmember Schmidt

WHEREAS, The Council of the City of Batavia authorized a project for the City Centre Renovations project; and

WHEREAS, a request for construction bids was released for contractors to construct the project as specified in the project construction documents. The lowest responsible bidder is Steve General Contractor Inc. of Caledonia, NY.

NOW, THEREFORE, BE IT RESOLVED, that City Council approves the award of a contract for construction for the City Centre Renovations project to Steve General Contractor Inc. of Caledonia, NY in the amount of \$1,019,900.00.

BE IT FURTHER RESOLVED, that the City Council approves \$109,355.00 in project contingency (7.5%) and fire protection services for the entire capital project.

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

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#104-2023

**A RESOLUTION TO ENTER INTO AN AGREEMENT WITH MICHAEL FERRAUILO
PLUMBING & HEATING FOR CONSTRUCTION SERVICES FOR THE CITY
CENTRE RENOVATIONS PROJECT**

Motion of Councilmember Twichell

WHEREAS, The Council of the City of Batavia authorized a project for the City Centre Renovations project; and

WHEREAS, a request for construction bids was released for contractors to construct the project as specified in the project construction documents. The lowest responsible bidder is Michael Ferrauilo Plumbing & Heating of Rochester, NY.

NOW, THEREFORE, BE IT RESOLVED, that City Council approves the award of a contract for construction for the City Centre Renovations Project to Michael Ferrauilo Plumbing & Heating of Rochester in the amount of \$97,000.00.

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

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#105-2023

**A RESOLUTION TO ENTER INTO AN AGREEMENT WITH ERIE ELECTRIC FOR
CONSTRUCTION SERVICES FOR THE CITY CENTRE RENOVATIONS PROJECT**

Motion of Councilmember Richmond

WHEREAS, The Council of the City of Batavia authorized a project for the City Centre Renovations project; and

WHEREAS, a request for construction bids was released for contractors to construct the project as specified in the project construction documents. The lowest responsible bidder is Erie Electric of Rochester, NY.

NOW, THEREFORE, BE IT RESOLVED, that City Council approves the award of a contract for construction for the City Centre Renovation Project to Erie Electric of Rochester in the amount of \$54,500.00.

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

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#106-2023

A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO UTILIZE WATER RESERVE FUNDS AS A LOCAL MATCH TO NBRC GRANT

Motion of Councilmember McGinnis

WHEREAS the City received a \$334,000 Northern Border Regional Commission (NBRC) economic development and infrastructure grant to install 950 linear feet of 8-inch diameter water main along Bank Street; and

WHEREAS, the project will replace 90+ year old pipe, improving reliability, increasing firefighting flows, and supply water needed for redevelopment projects including the new police facility on Alva and Bank; and

WHEREAS, the City of Batavia originally authorized a local match of \$84,000 from the Water Reserve Fund; and

WHEREAS, after bidding the project the total project cost has risen from \$418,000 to \$646,788.16; and

WHEREAS, the City commits to a local match of \$312,788.16 and will utilize the Water Reserves to fund the match.

NOW THEREFORE, BE IT RESOLVED, City Council authorizes the City Manager to utilize Water Reserves as a local match to the NBRC grant.

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

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#107-2023

A RESOLUTION TO AMEND THE 2023-24 FIRE DEPARTMENT BUDGET TO REFLECT THE RECEIPT OF A CAR SEAT GRANT

Motion of Councilmember Bialkowski

WHEREAS, the City of Batavia Fire Department has received a grant in the amount of \$ 3,500.00 for Award period October 1, 2023 through September 30, 2024 from the New York State Governor's Traffic Safety Committee related to Car Seat Safety for increased child passenger safety and proper installation training of caregivers in an effort to reduce serious injury and death to children; 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 is authorized to make the following budget amendment to the 2023-2024 budgets effective September 30, 2023 to cover various Car Seat Program details, equipment purchases:

Revenue: A.00.0000.0000 3389-211198	State Aid - Other public safety	\$3,500
Expense:		
A.05.3410.3410 299-211198	Fire Department Small Equipment	\$3,400
A.05.3410.3410 499-211198	Fire Department Supplies & Materials	\$100

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

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Meeting adjourned at 7:50 PM.

Respectfully submitted,

**Heidi J Parker
Clerk-Treasurer**