

CITY OF BATAVIA
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Committee of the Whole Agenda

Tuesday, June 21, 2016
7:30 PM Council Chambers 1st Floor

1. Roll Call
2. Approve Minutes For May 24, May 31, And June 7, 2016
Documents: [COW 16-05-24M.PDF](#), [COW 16-05-31M.PDF](#), [COW 16-06-07M.PDF](#)
3. Items Removed/Added/Changed
4. Matters From The Public (For Items NOT On Agenda)
5. Discussion: Amending Intergovernmental Agreement With North Aurora-Hart Road (SCB 6/10/16) CD
Documents: [HART ROAD IGA COMBINED REP.PDF](#)
6. Continued Discussion: Implementing Contractor Registration (SCB 6/3/16) CS
Documents: [CONTRACTOR REGISTRATION COMBINED REP2-2016.PDF](#)
7. Ordinance 16-37: Declaration Of Fire Department Surplus Equipment (Dep.Chf. Jancauskas 6/13/16) GS
Documents: [ORDINANCE 16-37 SURPLUS PROPERTY EQUIPMENT.PDF](#)
8. Discussion: Street Name Change From South Drive To Hawks Drive (SCB 6/2/16) GS
Documents: [STREET NAME CHANGE SOUTH DRIVE COMBINEDREP.PDF](#)
9. Discussion: Short Term Home Rental Regulations (SCB 6/10/16) GS
Documents: [SHORT TERM RENTAL DISCUSSION COMBINED REP.PDF](#)
10. Project Status
11. Other
12. Closed Session:
 - a. Collective Bargaining
 - b. Personnel
 - c. Purchase of Real Property
13. Adjournment

MINUTES
May 24, 2016
Committee of the Whole
City of Batavia

Please **NOTE:** These minutes are not a word-for-word transcription of the statements made at the meeting, nor intended to be a comprehensive review of all discussions. They are intended to make an official record of the actions taken by the Committee/City Council, and to include some description of discussion points as understood by the minute-taker. They may not reference some of the individual attendee's comments, nor the complete comments if referenced.

Chair Brown called the meeting to order at 7:30pm.

1. Roll Call

Members Present: Chair Brown; Ald. Russotto, Atac, Stark, Wolff, O'Brien, Callahan, Hohmann, Mueller, Botterman, and Cerone

Members Absent: Ald. Chanzit, Fischer, and McFadden

Also Present: Mayor Schielke; Chief Schira, Batavia Police Department; Bill McGrath, City Administrator; Scott Buening, Director of Community Development; Joel Strassman, Planning and Zoning Officer; Jeff Albertson, Building Commissioner; and Jennifer Austin-Smith, Recording Secretary

2. Items to be Removed/Added/Changed

Chair Brown asked that discussion on agenda items 8 and 9 be discussed after agenda item 3. There was no objection by the Committee.

3. Matters From The Public (For Items NOT on Agenda)

There were no matters from the public for items not on the agenda at this time.

**4. Discussion: SCB Discussion Inclusionary Housing Ordinance (Scott Buening 5/17/16)
CD**

Stark commented that, in the past, the City had a discussion on a Community Land Trust and the Council decided to not take it on due to the long term costs and the benefits to the community were not entirely articulated. Stark stated that the idea of supplying housing that encompasses a variety of demographics is a goal for our community and is in our housing study. Staff has taken direction from the Committee to find a local example. Buening has distributed the City of St. Charles' Inclusionary Housing Ordinance (IHO) that they have had since 2008 for discussion.

Buening reported that St. Charles developed an IHO that basically requires all developers to provide some level of affordable housing for every project. This could be done in housing or cash. The City would take the cash as a resource for its housing committee to build affordable housing or buy a property. The City also offers density bonuses. The ordinance has a fifteen-year term for the housing to remain affordable through a covenant on the property. That way, the City is assured the property would remain affordable. Buening asked the Committee if they would like to create an ordinance similar to this.

Callahan stated that the Realtor Association for the Fox Valley would like to be a part of this discussion and would like to be involved in the creation. Atac stated that it is part of our strategic plan that we work on housing in our community. We have had the housing study done and it called for provisions to create affordable housing options. We haven't had a lot of development but it is going to start again. What we have left is a premium. Now is the time to come up with a strategy so that when this land starts selling we are prepared. O'Brien asked if we could address the apartment complexes in the City that are in disrepair. Buening stated that management is changing and they are making an effort to make it better. Buening stated that we have affordable housing in our City and we have less than market rate rents. There are many that are well maintained. It depends a lot on the management. Buening stated that based on the study we will need more affordable housing. We are not below the ten percent that the state mandates but it could happen. Buening explained that the state creates an analysis for each town as to what the affordable level is and they are generalized by region (e.g. Kane County). For single family in Batavia, anything less than \$168,000 is considered affordable.

Brown suggested inviting HOAs, relators, and more stakeholders to have these discussions. Brown commented that he does not like the inclusionary housing ordinance as it is written. He does not want to hinder any development that would benefit the City. O'Brien commented that he is not in the position to make a direction at this time. Callahan asked to table discussion to a date certain to give staff the time to have discussion with stakeholders. Callahan made a motion.

Motion: To table discussion on this for six months in order to have staff discuss this with stakeholders
Maker: Callahan
Second: Mueller

Discussion was held on the motion. Atac asked staff to look at other ways and options to bring affordable housing to our community. Callahan would like to see what works in other communities and staff could come back with the best options and the best product. Buening stated that there are all sorts of ways to do affordable housing. Brown asked if there was anyone in the public that wanted to address the Committee. There were none.

O'Brien stated that he would have liked this discussion to continue. He would vote no because the purpose of these meetings is to have a discussion and it was cut off with the vote. Botterman asked if 30% would be something staff would suggest. Buening stated that staff just wanted to provide a local example of what another community did. 10% is what the state statute says and what the state looks at.

Voice Vote: 10 Ayes, 1 Nays, 3 Absent
Motion carried.

O'Brien was the nay vote.

Stark asked if there is any development that we need to look at within the six months. Buening stated that if we wanted to include something like this we could add it at the time of development.

5. Discussion: SCB Wayfinding Signage for Downtown (Scott Buening 5/12/16) CD

Kurt Hagemann, President of Batavia MainStreet, shared that a Batavia resident generously donated a sizable donation to Batavia MainStreet. A Committee was developed on how to best use the funds in the downtown.

Rob Hollis, Vice-President of Batavia MainStreet, stated that the MainStreet Reinvestment Committee decided to utilize the money towards wayfinding. Wayfinding fits in the mission of Batavia MainStreet. There is tremendous momentum that the downtown and the City have generated as a result of the investments on the streetscape projects. Wayfinding is the natural next step. Wayfinding is the way you market your town, cultivate civic pride, and make the City unique. The towns that do it well are gorgeous. Marketing and branding are certainly a part of this process. The Board has approved to use \$50,000 in wayfinding to be used over the next two years. The money could not be used towards studies, only to be used in capital investment. Batavia MainStreet would like to be active participants.

Hohmann stated that we should start at step one and do our branding so that there is not a lot of different types and looks to our signage. The monument sign also needs to be done and that could be included in the branding and wayfinding process. Hollis encouraged the Committee to come to a decision on whether or not they would like to invest in wayfinding. Brown stated that it is generous of MainStreet and the resident that donated the money. Brown asked what the study would entail. McGrath answered the study would give you cost estimates, benefits and suggestions on different types of signs. Brown asked for more discussion on this next Tuesday evening and see if the Park District would have any interest in it too. Callahan agreed and stated that McFadden and Fischer feel that marketing should be done first. Brown agreed that they should be part of this discussion. Stark concurred that branding should be decided upon before wayfinding. The Committee decided to discuss this topic at the May 31st meeting with the Park District.

6. Discussion: Ordinance 16-34: Regulating Body Work Establishments (WRM 5/18/16)

Drendel stated that the intent of the ordinance is to not be burdensome on the legitimate massage therapists and businesses in town. We want a strong hammer to keep out illegitimate businesses. Drendel stated that we are defining owners broadly. We are holding the owners responsible for what happens in the business. The owners have an affirmative obligation to provide supervision and oversight. If they neglect to provide that and someone in the business does something they cannot say we did not know. We have given the authority to suspend without a hearing for up to seven days only in egregious circumstances. We have provided the due process hearing. Fines are discussed in section eighteen.

Chief Schira clarified the State regulates and licenses of the massage therapists but does not regulate the businesses themselves. The fact that the Police Department could do a thorough investigation and get rid of illegal activity is very valuable. Drendel stated if you see something

in the ordinance that you think we missed to let us know. Chief Schira stated that the massage therapists that shared their input were instrumental to this process.

Dr. Jack Sharrett, 940 West Wilson Street, stated he has been in private practice in Batavia for 21 years. Massage therapy is growing in choice for safe and effective therapeutic alternatives as they cope with painful physical conditions. Licensed Massage Therapy is a safe and effective component of physical healthcare. He encouraged the Committee to draft effective prostitution legislation, which eradicates the sex trafficking and money laundering industry that often masquerades as massage therapy clinics. It would be draconian to burden licensed massage therapists with fees and legal requirements for a problem that is not theirs. These health care professionals are highly credentialed and must adhere to clear professional standards of behavior. He applauded everyone in the City of Batavia that took part of the drafting of this legislation. He thanked the Committee for letting him speak tonight.

Samantha Mix, 714 Lathem St Batavia, shared she lives by Gem Spa. When you think of community development, you are talking about impacting the businesses around them. The local businesses need to understand that it impacts them. She shared that her family no longer goes to the businesses near Gem Spa. She pointed out that Gem Spa refuses service to women, which is illegal. She asked the Committee to keep their eyes open on this. It has happened here because we need to spend more time scrutinizing businesses. Single gender clientele is very suspicious. She stated that it is suspicious that the questions were not answered very well on the application but the state exam for licensure was passed. The test is in-depth and would require extreme skill. This is a very serious situation and she asked the City to look into it.

Michelle Benz, Batavia Resident, stated that she helped create the ordinance. She stated that the average income of a massage therapist is only \$30,000. Per capita, it is \$40,811. Just for us to be able to practice we have purchase yearly liability insurance (\$100-\$250), licensing renewal fee every two years (\$175), and to qualify we have to do 24 hours of continuing education and two of which of must be in ethics (this could range from \$400-\$1,200). Massage therapists are already paying so much out of pocket with such little income. We have a passion to get people out of pain and help them continue with their lives. She noted that we are an asset to this town and it is the other businesses that benefit. Her clients visit the local business all of the time. She does not feel that we need to pay the price for two bad seeds. The Police Department did a great job. She could not be prouder of these ordinances. There was a lot of hard work that was put into the ordinances. She thanked the City. The \$100 application fee makes sense. It is the \$100 every single year that is her concern. Once that background has been established, there is no need for a continual annual fee.

The Committee discussed the fees and who would be responsible for paying for them. Callahan stated that, in the long run, the fees do not deter what we are trying to prevent. The money is unduly burdensome to the legitimate businesses that we have in. Wolff stated that we need to charge for a licensure to pay for staff time, otherwise it is the tax payers paying for it. Chief Schira stated that this ordinance provides the ability to do background checks on these businesses. This is the first time that the Police Department could do background checks. He continued that he does not care what the fee is he just wants the provision in the ordinance that allows the Police Department to do adequate background checks so we don't have to hear that

the Police Department dropped the ball because that is not the case. Drendel stated that without an ordinance in place giving the Police Department the authority to do background checks it is just a building permit and we as a government cannot deny a business to open because we think it might be an illegal business.

Gabriel Souza, Urban Style Salon, agreed about the phenomenal work that massage therapists do. He does not think that the fees are fair to the businesses. He asked if he could be grandfathered in as a business owner.

O'Brien stated that the renewal fee would be solely to cover the cost of staff time spent.

Motion: To recommend to City Council approval of Ordinance 16-34 with an amendment to change section C12, waving the annual renewal fee
Maker: Callahan
Second: Hohmann

Discussion was held on the motion. Callahan clarified that the fee to be waived is the annual renewal fee, not the application fee. Buening stated that this motion would be to strike C1 and C2. Wolff stated that the yearly fee is also a cost and he would vote against this. Our staff will need to spend time on this every year and that cost would have to be covered. O'Brien agreed. He stated that it is important that we pass this ordinance and there would have to be a cost. Atac stated that she would support the ordinance as written.

Laurana Bain, Licensed Massage Therapist, Director of Massage Therapy for Elgin Community College, thinks that what happens to the businesses owner is an important piece. We do need this ordinance. She would love to see that it not be a financial impact to massage therapists. At this point, knowing how much time and effort that went into this and how the massage community was welcomed into this effort, she thanked the City for making something that worked well for both of us.

Lia McClausky, Licensed Massage Therapist in Batavia, asked if you have already run the background check why does there have to be an annual fee every year.

Chief Schira stated that when it is time for renewal, we don't have to go through all the hoops as with an initial application. There is a felony background check done. We will look to see if the massage therapist has a valid state license. Drendel stated that there is a case to be made to have the renewal fee lower than the application fee because there is less work involved. Hohmann asked how many people would be subsequent to the one hundred dollar fee. Buening answered he would estimate four for the one hundred dollar fee and six for the fifty dollar fee. Hohmann stated that we are basically talking about seven hundred dollars. Hohmann called to question.

Roll Call Vote: **Aye:** Russotto, Callahan, Hohmann, Mueller, Botterman, Cerone
Nay: Brown, Atac, Stark, Wolff, O'Brien
6-5 Vote, 3 Absent, Motion carried.

7. Ordinance 16-35: Amendments to the City of Batavia Zoning Code, City of Batavia, Applicant (Joel Strassman 5/19/16) CD

Stark read the memo sent by Joel Strassman on 5/19/16 to the Committee. She asked if there were any questions. Brown asked why the changes are necessary. Strassman stated that the City Council approved variances on properties that these amendments, if they were in place, could have avoided the need for variances. We continue to work with homeowners on potential projects and we have many inquiries and staff decided to take action to bring back some of the closer set backs that the previous zoning code allowed. The R2 zoning district did not have a special accessory structure allowance. This would bring some of that in so that people could apply to get a shed on their property. A final change would be for the Zoning Board of Appeals to allow existing officers to be reelected for up to three terms. Brown asked if the Mayor had any comments on the term limits discussed. Mayor Schielke stated that the Plan Commission has a good handle on what they need to function well.

Motion: To recommend approval of Ordinance 16-35: Amendments to the City of Batavia Zoning Code, City of Batavia, Applicant
Maker: Wolff
Second: Hohmann
Voice Vote: 11 Ayes, 0 Nays, 3 Absent
Motion carried.
CONSENT AGENDA

8. Approval: B-5 Liquor License – Shell of Batavia (Batavia Avenue) (Chief Schira 5/17/16) GS

Atac stated that a background check was made and the Police Department found nothing that would preclude the corporate officer from receiving this license.

Motion: To approve B-5 Liquor License – Shell of Batavia
Maker: Atac
Second: Callahan
Roll Call Vote: **Aye:** Brown, Russotto, Atac, Stark, Wolff, O’Brien, Callahan, Hohmann, Mueller, Botterman, Cerone
Nay:
11-0 Vote, 3 Absent, Motion carried.
CONSENT AGENDA

9. Approval: B-5 Liquor License – Citgo (E. Fabyan Pkwy) (Chief Schira 5/17/16) GS

Atac reported that a background check was completed and nothing was found that would preclude the corporate officer from receiving this license.

Motion: To approve B-5 Liquor License – Citgo
Maker: Atac
Second: Callahan
Roll Call Vote: **Aye:** Brown, Russotto, Atac, Stark, Wolff, O’Brien, Callahan, Hohmann, Mueller, Botterman, Cerone
Nay:

11-0 Vote, 3 Absent, Motion carried.
CONSENT AGENDA

10. Project Status

McGrath reported on the following:

- Aiston discussed the First Baptist Church project with the School Board and they were in support.
- Final things on Storehenge, the graphics have been sent to the printing company. That should be done soon.

Wolff asked about the franchise agreement. McGrath stated that we are close and the new five-year budget was sent. The City is waiting to hear back.

11. Other

There were no others at this time.

12. Closed Session

a. Personnel

Motion: To enter into closed session for the purpose of personnel

Maker: O'Brien

Second: Callahan

Voice Vote: 11 Ayes, 0 Nays, 3 Absent
Motion carried.

Closed Session began at 9:51pm.

13. Adjournment

There being no other business to discuss, Brown asked for a motion to adjourn the meeting at 10:06 pm; Made by O'Brien; Seconded by Callahan. Motion carried.

Minutes respectfully submitted by Jennifer Austin-Smith

MINUTES
May 31, 2016
Committee of the Whole
City of Batavia

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Chair Brown called the meeting to order at 7:30pm.

1. Roll Call

Members Present: Chair Brown; Ald. Russotto, Atac, Stark, Wolff, Fischer, O'Brien, Callahan, Mueller, Cerone and McFadden

Members Absent: Ald. Chanzit, Hohmann, and Botterman

BPD Board: Allison Niemela, Executive Director; Kevin Riley, Commissioner; Gary Foiles, Commissioner; Pat Callahan, President; John Tilmon, Vice-President; and Tara Gray, Commissioner

Also Present: Mayor Schielke; Bill McGrath, City Administrator; Scott Buening, Director of Community Development; Kevin Drendel, Legal Counsel; Andrea Podraza, Senior Civil Engineer; Gary Holm, Director of Public Works; Rahat Bari, Civil Engineer; Peggy Colby, Director of Finance; and Jennifer Austin-Smith, Recording Secretary

2. Batavia Park District Board Meeting Called to Order

The Batavia Park District called the meeting to order. Roll call was made. There were no items to be removed or changed to their agenda.

3. Approve COW Minutes for April 26, 2016

Motion: To approve the COW minutes for April 26, 2016

Maker: Wolff

Second: Stark

Voice Vote: 11 Ayes, 0 Nays, 3 Absent
Motion carried.

4. Items to be Removed/Added/Changed

There were no matters to be removed, added or changed.

5. Matters From The Public (For Items NOT on Agenda)

Russotto stated that his daughter, McKayla, and her friend Sophia are here tonight to promote the annual cheerleader five dollar car wash. He welcomed them to address the Committee and Board.

McKayla Russotto announced that the annual cheer team \$5 car wash fundraiser for the Batavia High School cheerleaders would be held on Saturday, June 4th from 10am to 2pm at Batavia High School, Main Street parking lot. She invited everyone to attend. Flyers were handed out to the Committee.

6. Consent Agenda

(The Consent Agenda is made up of items recommended by city staff that requires recommendation to the full City Council by the COW. This agenda is placed as a separate item on the COW agenda. The items on the Consent Agenda are usually minor items, already budgeted, standard non-policy activities or outgrowths of earlier meetings and are voted on as a “package” in the interest of saving time on non-controversial issues. However, any council member may, by simple request, have an item removed and placed on the “regular” agenda.)

a. 2016 Post Issuance Compliance Report (Peggy Colby 5/20/16) GS

Motion: To approve the Consent Agenda as presented
Maker: Wolff
Second: Fischer
Voice Vote: 11 Ayes, 0 Nays, 3 Absent
Motion carried.

7. Discussion: Park District Updates and City/Park District Joint Interests

Mayor Schielke presented on the history of the Fox River. After the presentation Mayor Schielke stated that the Fox River presence through Batavia is the crown jewel of the community. He stated that we could utilize the river frontage for some very positive things. We could make the river a recreational and an economic development tool for the community. The river presents the beauty and strength that Batavia is all about.

Brown shared that Altamanu, the City’s streetscape design firm who designed River Street, had trouble finding their way to downtown Batavia and did not know that there was a river in town. Brown asked what can we do with the river to make it more accessible to the public and what can we do to protect the pond. We need to protect our great asset, which is the river. The river banks are eroding and that is another concern.

Pat Callahan stated that it is part of their mission to maintain and preserve the natural resources. Talking about this in 2003 they had two concerns, the river banks and utilization for public use and the quarry. The Quarry water level needed to be maintained. That was invested in so that it would maintain the water level needed. The dam needs to be in some capacity there to ensure that this community asset to the west is maintained. Whether it is a dam or earth and berm, we believe access along the riverbanks would be far more beneficial then we currently have for our patrons to be able to use the river. We don’t program the river. We share your love for it and your concern to help protect it.

Tilmon stated that the river is our asset and is our jewel. It has been proven through every survey that we have administered that this is our number one park. Whether the Depot Pond is being used for ice skating or being used to look at, it brings people to our town. The concerts in the

summer, it lends itself to the look and feel that people cherish here in Batavia. Tilmon stated that any way we could protect that asset we should talk about it. Callahan stated that a permanent solution should be considered and we need to understand the financial cost. Tilmon stated that we need to really know what is out there in the river. What is out there that has to be dealt with and what are the possibilities. Before we have an intelligent conversation on where to go we need to have a discussion on what we have. Wolff stated that we have some information from the State of Illinois that was planned out and approved. We should get that back out and take a look at that. The berm to make the pond separate from the river could be done regardless of what happens to the dam or how many layers of dams there are.. Wolff stated that they asked the State if we could do just the berm and let nature take its course and when the dam came apart we could see what structures are there and decide how we handle rechanneling the river and removing what is left of the dam. The State said it could be done and it would be an approval from the Army Corps of Engineers and IDNR. The Depot Pond would have to be a separate pond and let it stay on its own. We would have to decide who's responsibility it is to maintain the pond and the pumps. Wolff would like to discuss who's responsibility it would be in the future and how do we get from here to there. Brown stated that he remembers that IDNR got very far on their study, hydraulic modeling, and plans on how the river would look and how the river would narrow down. Brown stated that we need to be proactive rather than reactive. We have to get some definitive action so that we could move forward in some direction.

Atac suggested looking into short-term solutions as well as long term solutions until we come up with what we want to do. Wolff stated that the director of water resources for Illinois told Atac and him that the State would allow for patching of the dam to fill that in to ensure the pond would not disappear until we have funding to fix it. Brown stated that he feels that it would cost as much money to patch the dam as it would to make an earth and berm to protect the pond. Wolff agreed. O'Brien does not want to be forced into action. We are really gambling on time if we don't plan something. We need to protect ourselves while doing the planning and gathering funding. Atac suggested getting preliminary cost estimates to do a temporary fix.

Marty Callahan stated that he would prefer to keep the pond and not have it filled with mud or become a bioswale. Callahan asked if it is the consensus between both bodies to save the pond. Everyone on the Committee was in favor of preserving the pond as we see it today. By a show of hands it was unanimous. Mayor Schielke stated that there is real community ownership of the river walk and a lot of people volunteered and donated money to create this park. Niemela stated that a community needs assessment will be done this year. We need to have a master plan for that area and look at the research that has been done. We also need to induce a visioning process. She stated that we are very fortunate to have a Park Board President that is used to spearheading large projects. We need to look at resources that we have on the Park Board and look beyond us and bring the community into it. The Park District and the City could continue this process and continue meeting like this to bring our resources together.

Pat Callahan suggested some items to address moving forward. He suggested securing some study to see how much silt is collected in the depot pond, study the earth and berm opportunities to maintain refreshed water in the pond and the study the dam last. Doing the pond first, since it is our first priority, would be taken care of and if there were a dam breach it wouldn't be such a detriment. O'Brien asked about what would happen with the north section of the river where the

waterfront condominiums are. O'Brien continued that cleaning up the river needs to be done so that we could utilize the river in recreational activity. Tilmon added another component is to have a plan that goes beyond that, we need a five or ten year plan for this area. The plan would consider what would we do with the extra land once the river narrows. He would like to see a strategic plan for dam removal. Pat Callahan clarified that what he is suggesting is an engineering position, hydrology, and a step-by-step process. He wants to know what do we do with the shoreline when it is available to us. He suggested having the study go from Fabyan Parkway to the edge of Clark Island as a whole. He would like to know what the costs would be now so that we could plan for it.

McGrath stated that a presentation should be made on the past engineering that was done on the river. McGrath continued that one thing that could help the Depot Pond would be to put up the berm and dry the pond and dredge it out. We are here to protect the Depot Pond. We could ask the Army Corps of Engineers to join in on this process and we could learn a lot from them. McGrath stated that staff has the IDNR reports and a presentation could be created but it would take some time. The information could be put on the website on the front page. Tilmon stated that he would like to have the City staff present on this. Pat Callahan stated that it would be beneficial to reconvene in a meeting like this. McGrath suggested a special meeting. McGrath stated that staff could recommend some next steps. Niemela stated that the river walk is the heart and soul of this community. McGrath will work with Niemela on when we could get back together for this discussion.

8. Discussion (Continued): Wayfinding Signage for the Downtown (Scott Buening 5/12/16) CD

Rob Hollis, Vice-President of Batavia MainStreet, reported that MainStreet is in the position to make an investment in the downtown. Batavia MainStreet received a generous donation from a Batavia resident and would like to investment \$50,000 towards wayfinding signage. Fischer suggested that branding be the first place to start. We need to have some sort of branding review and he would like to see a coordinated and consistent message. He noted that branding does not take that long and does not cost that much money. McFadden stated that the City needs to do it right. The City needs to know who they are, what they want to project, and the message that we want see downtown. Consistency with branding is important for wayfinding. Marty Callahan stated that branding should be done first. O'Brien asked if we coordinate with the Park Board or with MainStreet. Fischer stated that a committee should be created to be a part of this. McGrath stated that the Park District and MainStreet have already had done their branding. The staff agrees with starting with branding and would hate to see any delays. McGrath suggested coming back with an RFP to go out and get it done. It does not have to be that long and drawn out. Niemela commented that they have been working on wayfinding signage for the Peg Bond Center and they have several concepts. They are working on wayfinding with a firm.

Motion: To direct staff to develop a RFQ for City branding
Maker: Callahan
Second: Fischer
Voice Vote: 11 Ayes, 0 Nays, 3 Absent
Motion carried.

Marty Callahan suggested having the School District as part of this discussion. McGrath was asked by Brown to create a meeting to discuss the wayfinding with the School District and Park District. McGrath agreed.

The Batavia Park District moved to adjourn their meeting at 9:01pm. Motion made by Callahan and seconded by Gray. The COW took a five-minute break before returning at 9:06pm to continue the meeting.

9. Resolution 16-51-R: Authorizing Execution of Task Order #6 with Rempe Sharpe for Area 2 & 3 Storm Separation for an amount not to exceed \$25,975.00 (Andrea Podraza 5/26/16) CS

Podraza reported as part of the City of Batavia's efforts to alleviate repeated drainage concerns and sewer back-ups in area 2 & 3 of the combined sewer on the City's west side the City Council allocated funds this fiscal year to conduct a drainage study and perform construction to improve this area. The Engineering Division sent out a request for proposals to the same consultants that submitted proposals for the Ward 1 drainage study. Four firms submitted updated statements of qualifications and sealed cost proposal. The consultant with the lowest adjusted cost and being recommended for this project is Rempe-Sharpe & Associates, Inc. from Geneva. The City has worked with Rempe-Sharpe on an IDOT drainage project on Rt. 31 as well as numerous projects for the Water Division. Those projects include the Batavia Avenue Water Service Replacement & McKee Street Substation Watermain Replacement, Maple Lane Watermain Replacement and watermain replacement on W. Wilson Street. The City has found Rempe-Sharpe to be responsive, responsible and timely in finishing submittals. This is the second project out of the \$400,000 allocated in the 2016 budget to investigate/study, prepare design drawings and/or construct solutions on a city-wide basis to help alleviate the drainage and sewer back-ups problems encountered most recently with the June 2015 rain event. Staff is in the process of evaluating what project will be next and then start preparing a request for qualifications.

Callahan asked about the timeline. Podraza stated that they are looking at them doing a final presentation on September 13th and preliminary engineering drafts in July. Podraza stated that Area 3 is being researched and we are asking for final engineering plans for Area 2.

James Gorski, 717 Blaine Street, appreciates the meeting the City had. The drain water and the sewage needs to get done. Last year around this time we had a major problem with rainwater and sewage backing up into housing. Blaine Street had sewage. This study makes sense because this is a health issue. He understands that this stuff is expensive but this also makes the City a better place to live. He stated that there are a lot of houses for sale on his block. We need to take the step forward to get these sewer lines separated. He stated that this plan needs to go forward.

Brown asked if they could focus on areas where sewage was coming into the house. Podraza stated that staff would work hand-in-hand to resolve those issues.

Motion: To recommend approval of Resolution 16-51-R: Authorizing Execution of Task Order #6 with Rempe Sharpe for Area 2 & 3 Storm Separation for an amount not to exceed \$25,975.00
Maker: O'Brien
Second: Callahan
Voice Vote: 11 Ayes, 0 Nays, 3 Absent
Motion carried.

10. Resolution 16-52-R: Authorizing Agreement with the Conservation Foundation Relating to Maintenance of Windmill Lakes Detention Basin (Andrea Podraza 5/25/16) CS

Podraza stated that The Conservation Foundation (TCF) and City of Batavia (COB) have an existing maintenance agreement for Windmill Lakes Detention Basin. The agreement gives TCF authority to manage the basin on COB's behalf. The initial agreement (Res 10-71-R) between the two parties only went from June 2011 until June 2014, not the full 5 years as the maintenance agreement language suggested. In November 2014 we brought this back to Committee to extend the original agreement to June 2016 (Res 14-131-R) and modified the agreement language to reflect the process that was in place. The ending date of the agreement was the only thing that has been revised to the agreement since the last one. Both the City and TCF have agreed to the end date of December 31st each year to coincide better with the growing season rather than having to renew right in the middle of it. The new agreement would be in effect until December 31, 2016.

Podraza reported that lot 14 out of that development had Golden Corral collecting all the funds for maintenance. Buening is currently working on this and we may have to look at funding this for the next five years. Buening is working on getting a backup SSA or some other option to get the funding. Buening stated that the Golden Corral situation is in limbo without a property owner. Buening stated that he has met with several of the property owners to work on some sort of solution. Wolff noted that the streets in that area are getting worse and worse. Buening stated that a backup SSA could be created as another option and if it is not working it could always be terminated. It could be set up and the returned to a dormant status.

Motion: To recommend approval of Resolution 16-52-R: Authorizing Agreement with the Conservation Foundation Relating to Maintenance of Windmill Lakes Detention Basin
Maker: O'Brien
Second: Cerone
Voice Vote: 11 Ayes, 0 Nays, 3 Absent
Motion carried.
CONSENT AGENDA

11. Ordinance 16-20: Water Pollution Control Loan Program Authorizing Loan Agreement City of Batavia a Home Rule Entity (Peggy Colby 5/12/16) GS

Colby reported the Wastewater Treatment Plant improvements as presented in Task Order #8 with Trotter & Associates approved by Resolution 16-11-R will be financed with an IEPA Loan. Ordinance 16- 20 is an Authorizing Ordinance for the issuance of up to \$30,000,000 in an IEPA Loan. This is not the official Bond Ordinance but is a requirement to proceed through the application process. The loan will have a Official Bond Ordinance prepared by Chapman and Cutler that will need to be approved by the City Council at a later date.

The projected cost for Phase I is currently \$27.7 million including projected construction loan interest. The amount in the authorizing Ordinance is set higher than expected to provide for unforeseen costs. The City Council has authorized three years of 6% rate increases to cover the costs of Phase I, however it should be noted that at least one more year of an increase is necessary to support Phase I. Further rate increases beyond 6% will be necessary for Phases II and III.

Brown stated that Gary Holm was authorized to hire another consultant to verify that we are spending the money the best way we could spend it. We are spending money but we are being careful on how we spend it. Colby noted that this has nothing to do with the storm sewer separation. O'Brien stated that we are also planning for the future for more capacity. Atac asked if we are building to the IEPA standards and if they change the standards what is our plan. Holm stated that they are building to get to the IEPA standards. We are designing with the idea that we could accommodate changes and we are not putting ourselves into a box.

Motion: To recommend approval of Ordinance 16-20: Water Pollution Control Loan Program Authorizing Loan Agreement City of Batavia a Home Rule Entity
Maker: O'Brien
Second: Atac
Voice Vote: 11 Ayes, 0 Nays, 3 Absent
Motion carried.

12. Project Status

McGrath distributed a handout titled "Status Updates Monday, May 31, 2016."

Brown asked about the TIF status and land sales and asked if that information could be distributed to the Committee. Colby stated that they are both ready and they just need to be presented.

June 7th is when the incubator business would be presented to the COW for the Thomle Building.

Wolff asked about Dunkin Donuts. Buening stated that they are finding that the retaining wall would have some conflicts and they would like to move it east and south and make it lower. That should go to the Plan Commission for a design review amendment.

Brown asked about the updates to City Hall. Holm stated that the server room project is just about finishing. The alarm system project is 80% done. The windows and stairs are still being worked on. They are getting one project done at a time.

O'Brien requested engineering reports. Holm stated that the website has all the latest updates on the web map. The project information is available on the map. If there are specific things we could give updates on to let him know. Holm stated that the creation of the map was made to keep updates available for all to view.

Mueller asked about the truck at the Larsen Becker building. She stated that there is a tree growing out of the windshield. Buening stated that he would check. Mayor Schielke stated that it is an active conversation.

Fischer asked about the Marathon station. Buening stated that canopy and pumps letter was sent out. That is a list to follow-up on and there should be a firm deadline created before we take further action.

13. Other

Mueller stated that Committee attendance is very important.

O'Brien complimented how the town looked and all the plantings looked very good. He thanked staff for that. Holm noted that Scott Haines is the person who takes care of that.

14. Closed Session

- a. Appointment of City Officer**
- b. Personnel**

Motion: To enter into closed session for the purpose of appointment of City Officer and personnel
Maker: O'Brien
Second: McFadden
Voice Vote: 11 Ayes, 0 Nays, 3 Absent
Motion carried.

Closed Session began at 9:46pm.

15. Adjournment

There being no other business to discuss, Brown asked for a motion to adjourn the meeting at 10:46pm; Made by O'Brien; Seconded by Mueller. Motion carried.

Minutes respectfully submitted by Jennifer Austin-Smith

MINUTES
June 7, 2016
Committee of the Whole
City of Batavia

Please **NOTE:** These minutes are not a word-for-word transcription of the statements made at the meeting, nor intended to be a comprehensive review of all discussions. They are intended to make an official record of the actions taken by the Committee/City Council, and to include some description of discussion points as understood by the minute-taker. They may not reference some of the individual attendee's comments, nor the complete comments if referenced.

Chair Brown called the meeting to order at 7:31pm.

1. Roll Call

Members Present: Chair Brown; Ald. Russotto, Atac, Chanzit, Wolff, Fischer, O'Brien, Hohmann, Mueller, Botterman, Cerone and McFadden

Members Absent: Ald. Stark and Callahan

Also Present: Mayor Schielke (entered 7:35pm); Bill McGrath, City Administrator; Gary Holm, Director of Public Works; Wendy Bednarek, Director of Human Resources; and Jennifer Austin-Smith, Recording Secretary

2. Approve COW Minutes for May 10, 2016

Motion: To approve the COW minutes for May 10, 2016

Maker: O'Brien

Second: Hohmann

Voice Vote: 12 Ayes, 0 Nays, 2 Absent
Motion carried.

3. Items to be Removed/Added/Changed

There were no matters to be removed, added or changed.

4. Matters From The Public (For Items NOT on Agenda)

There were no matters from the public.

5. Electric Division Succession Planning (Gary Holm 6/2/16) PU

Holm reported that staff spoke with the Committee earlier this year regarding our succession planning and working with Human Resources. The Electric Department, through the survey, found that we have three senior linemen who could retire soon. Most linemen desire to work contract work. Holm stated that there has been success with training apprentices. We are not proposing an increase in staff, we would like to start the apprenticeship program to get people up to speed before our senior linemen retire. Holm would like direction from Committee to begin advertising for the positions of both Journeymen and apprentices. Holm explained that advertising for both would give the City the necessary flexibility. O'Brien stated that he is in favor of it and it is important to do. Wolff asked for staff to report back to Committee so that they know what is going on with the budget. O'Brien asked if anyone is opposed to staff moving forward with advertising for the positions. There were none.

6. Resolution 16-53-R: Approving Written lease for 2 East Wilson Street (The Thomle Building) (Chris Aiston 6/2/16) GS

Aiston reported on the new proposed incubator business for the Thomle Building. Aiston stated that the Wilson Street floor would be a boutique and the second floor would be utilized as office space and gathering place. The third floor is beneath Wilson Street and would be used for storage. Aiston stated that staff would be supportive of it because of the \$600 rental fee per month and there would be a sales tax generating business in town. The tenant would be responsible for all utility costs. There would be a one-year lease with an option to extend for six months, a year or month-to-month.

Brea Hayes, proprietor of Fawn Gifts, presented to the Committee a PowerPoint presentation regarding her business. She gave her personal background, Fawn Gifts Vision Statement, services (personal care, thoughtful and compassionate gifting, private client), Thomle building opportunity, upstairs usage for local artists/book clubs (low-impact ways to get community members into the store), and phases to launch (Grand Opening August 2016).

Motion: To recommend to Council approval of Resolution 16-53-R: Approving Written lease for 2 East Wilson Street

Maker: Brown

Second: O'Brien

Voice Vote: 12 Ayes, 0 Nays, 2 Absent
Motion carried.

Brown welcomed the applicant to attend the June 20, 2016 City Council meeting to further advertise her business. He noted that this meeting would be on BATV and would give her free advertising.

7. TIF Status Update

McGrath presented on the "TIF Funding Projections Excel Worksheet" which was displayed for the Committee to view. McGrath stated that we are in good shape to work with The Blue Goose project. He explained the various columns on the worksheet for the Committee's benefit. McGrath asserted that the City would have to wait until 2022 and 2023 before we could start envisioning future projects.

Hohmann asked if wayfinding is TIF eligible. McGrath stated that if it is in the bounds of the TIF district than absolutely.

Brown asked McGrath to discuss the constraints on what the money from the sale of surplus properties could be used for. McGrath stated that he could have the "City Properties Surplus Sold List" organized to what property was sold for originally and what the money could be used for.

8. Discussion/Recommendation of "Science" Bridge Sculpture

McGrath discussed the process. Staff put out a call to the artists, comments were received, and a practicing sculptor supplied his comments via a memo. A presentation was made at the COW.

McGrath stated staff would negotiate a contract with the artist of choice. McGrath discussed each piece of art for consideration on how comfortable staff is with the safety of mounting the installation onto the bridge.

The COW agreed to fill out a ballot, created by McGrath, to vote on the preferred artwork. The ballots were distributed to the COW and those attending the meeting in the audience. Those voting were asked to vote with a number five for their first choice. The artists and concepts are listed below:

- Guy Bellaver “Bulldog Quark” “Luce in Movimento”
- Chris Bennett “Enrico Fermi”
- Bouba Boumaiz “Quantum”
- Bobbie K Carlisle “Stretch the Limit”
- Douglas Eageny “Untitled”
- Francis Joe Gagnepain IV “ColliderScope”
- Kermit Gilbert “Electric Helix”
- Frederick Klingelhofer “The Last Unknown”
- Steven Lockwood “Interaction Point”
- Fisher Stolz “Untitled”
- Bruce White “Fractal Limits” (Squares)
- David Zahn “Untitled”

The Chair and the Recording Secretary tallied the ballots. The results were:

- First Place, Bruce White’s “Fractal Limits” Squares version with 52 points.
- Tie for Second Place was Fisher Stolz “Untitled” and David Zahn “Untitled” with 34 points
- Third Place was a tie between Frederick Klingelhofer “The Last Unknown” and Chris Bennett “Enrico Fermi” with 20 points.

9. Approval: Call for “Art” Bridge Sculpture

The Committee directed staff to go forward with the call for “Art” bridge sculpture. Mayor Schielke stated that the bulldogs would be moved to another location for the public to enjoy. The Committee agreed. Brown suggested the River Walk. McGrath would talk to the Park District.

10. Resolution 16-54-R: Authorize Execution of Franchise Agreement for Cable Television with Comcast of California, Colorado, Illinois, Indiana, and Michigan LP (WRM 6/3/16)

McGrath reported that our cable television is the most active in the entire area. BATV has been incorporated into the high school curriculum. McGrath stated that the 1% for PEG would be split out on the bill. The negotiation with Comcast is to negotiate some money per viewer per month and utilize that for the PEG. The 1% was figured out to .82 cents per month per customer. Staff negotiated that the ceiling could go up over time after the first five years and that is based on BATV coming up with a capital program that justifies increasing that number. The letter of approval of the .82 cents and capital program approval would be received soon. Staff is still

negotiating the poll attachment agreement (separate agreement) but if we go forward with the .82 cents then we will at least get some money in.

Wolff stated that he thinks we have a good deal that works out well for BATV. At budget time we need to look at the numbers of the percentages and what ATT's fees are to make sure that they are aligned in the same way as far as capital and operating for BATV.

Motion: To recommend to Council approval of Resolution 16-54-R: Authorize Execution of Franchise Agreement for Cable Television with Comcast of California, Colorado, Illinois, Indiana, and Michigan LP

Maker: Wolff

Second: Hohmann

Voice Vote: 12 Ayes, 0 Nays, 2 Absent
Motion carried.

11. Project Status

McGrath reported on the following:

- BEI and Blue Goose meeting went well
- Work is being done on Air B&B
- Both cases from massage establishments have been continued to June for a date set for trial, as requested by the massage establishments

12. Other

Austin Dempsey, Batavia Enterprises, reported that the proposed monument has been a community effort rallied around Dr. Bernard Cigrand's achievement of creating Flag Day. This is the hundredth anniversary of Flag Day and we spent a significant time considering how we would celebrate it. We would like to leave a legacy for Batavia and future generations of Batavia. We would like this to be inspirational and educational. We hope to have school groups visit the location.

Steve Vasilion, architect, stated that this could be more than just a monument. It could tell a story that brings us through the history of time. Vasilion distributed a handout to the Committee titled "Helix Flag Day Memorial." He explained to the Committee the concept, design features, physical dimensions, construction, lighting, and donor opportunities for the Helix Flag Day Memorial. He presented a rendering of the memorial with three different locations on the City Hall site. Vasilion noted that the Park District would be consulted with to see which site would be best. He commented that he prefers the furthest south location.

Mayor Schielke stated that we do not have anything in Batavia to honor the founder of Flag Day, who was a Batavia resident. He moved from Batavia to Aurora in the last part of his life and Aurora has a monument there. All of the things that he did were while he was in Batavia. We really should be claiming it. Another monument celebrating Dr. Cigrand is in a small town named Waupaca in Wisconsin. He was a schoolteacher there in a one-room schoolhouse. Mayor Schielke stated that we would have a lot of visitors to this monument, from bike trail patrons to school groups. He thanked Vasilion for donating his talents to create the monument and Dempsey for offering his skill to help finance the project. A number of people have offered to

make donations. Mayor Schielke concluded that this is really something special for the history of our town.

O'Brien stated that he loves the design of this monument and he said that it is a fantastic, iconic design. It would bring people into our town and would elevate us as a community. Wolff stated that it is a great idea and he likes that it is bigger than he originally imagined. Vasilion stated that he would be happy to stake out a forty-foot diameter at the desired location so that we could have an idea of the monument's footprint. Atac commented that she loves the sundial aspect of the monument. Cerone stated that this monument exceeds his expectations. McFadden stated that the whole concept is fabulous.

Dempsey stated that we are looking at the fundraising opportunities. Dempsey announced that he filed a 501C3 so we could create a maintenance fund. Dempsey explained that we want to raise enough money to create an endowed fund for maintenance. Brown stated that the next step is to talk this over with the Park Board.

13. Adjournment

There being no other business to discuss, Brown asked for a motion to adjourn the meeting at 9:28pm; Made by O'Brien; Seconded by McFadden. Motion carried.

Minutes respectfully submitted by Jennifer Austin-Smith

CITY OF BATAVIA

DATE: June 10, 2016
TO: Committee of the Whole-CD
FROM: Scott Buening, Community Development Director
SUBJECT: Discussion: Amending Intergovernmental Agreement with North Aurora-Hart Road

- 1. Summary:** Discussion on amending an Intergovernmental Agreement (IGA) with North Aurora in relation to ownership and maintenance of part of Hart Road.
- 2. Background:** In 1998 the City and the Village of North Aurora passed an IGA which governed the ownership and maintenance of Hart Road south of what is now Ritter Drive. Since that time, both municipalities have annexed and dedicated portions of this road right-of-way which has created an unusual boundary alignment. Furthermore, as the language of this agreement was not well known or codified by Ordinance or Resolution, the maintenance duties of the roadway have become a bit murky and duplicative.

In order to rectify this situation, both staffs have met and have drafted a revision to the IGA with the assistance of the City Attorney. Note that Kevin Drendel acts as Counsel for both Batavia and North Aurora. Since the matter was not contentious, we mutually agreed to have his office draft the amended IGA.

The main points of the amended IGA are as follows:

- Batavia will deannex and North Aurora will annex all of the Hart Road right-of-way (ROW) south of the Wind Energy Pass intersection.
- North Aurora will deannex and Batavia will annex all of Hart Road north of and including the Wind Energy Pass intersection.
- Batavia will mow the east parkway of Hart Road south of Wind Energy Pass adjacent to the City detention pond.
- North Aurora will mow the west parkway of Hart Road north of Wind Energy Pass adjacent to the Village of North Aurora residences.
- All existing utilities can remain in the ROW, regardless of the jurisdiction of the roadway.
- Each municipality will simply notify the other when utility work is being done in their section of roadway. The previous agreement required a formal permit for this work.
- The City will plow Hart from Wind Energy Pass north, and North Aurora will plow from Wind Energy Pass south.

- Each municipality will patch and resurface their respective sections of road. The previous agreement had each town meet and divide the % of road based on the jagged jurisdiction line.
- Parkway tree removals (not trimming) require consultation with the other municipality.

We feel that this is a mutually agreeable solution that clarifies the jurisdiction and maintenance responsibilities for this section of road. North Aurora will be taking this to their Committee meeting on June 20 for discussion.

3. Alternatives, including no action if viable:

- **Pros** The amendment clarifies the jurisdiction and maintenance responsibilities for the section of Hart Road that lies on the mutual boundary line. This will reduce duplication of efforts and prevent miscommunication in the future.
- **Cons** There are no real cons to the proposed agreement.
- **Budget Impact** No significant budget impact, but plowing and mowing activities will not be duplicated in the future.
- **Staffing Impact** No significant impact on staffing.

4. Timeline for actions: There is no specific timeline as this issue has been continuing for a number of years.

5. Staff recommendation: Staff recommends that the Committee direct staff to prepare an Ordinance approving an amendment to the Hart Road Intergovernmental Agreement, and subsequent plats of annexation and disconnection.

Attachments:

1. Draft IGA.
2. 1998 IGA.
3. Map showing proposed boundary after land annex/deannex.
4. Plat of Disconnection.

AMENDMENT TO INTERGOVERNMENTAL AGREEMENT
FOR MAINTENANCE AND UTILITY LOCATION
IN HART ROAD RIGHT-OF-WAY

This Agreement entered into this ____ day of _____, 2016, by and between the Village of North Aurora (hereinafter the "Village") and the City of Batavia (hereinafter the "City") both municipal corporations of the State of Illinois.

WITNESSETH

WHEREAS, the Illinois Constitution of 1970, Article VII, Section 10 and 5 ILCS 220/1 *et seq.* authorizes the Village and City to cooperate in the performance of their respective duties and responsibilities by agreement; and,

WHEREAS, the Village and City have previously, by annexation, acquired separate but contiguous portions of the Hart Road right-of-way, south of the south line of Section 27, Township 39 North, Range 8 East of the Third Principal Meridian, and have previously agreed on the boundary between the Village and City, west of Hart Road, pursuant to the Intergovernmental Agreement for Maintenance and Utility Location in Hart Road Right-of-Way dated April 13, 2008 (hereinafter the "Hart Road Agreement"); and,

WHEREAS, the Village and City also agreed to the allocation of certain maintenance responsibilities for the roadway and utilities in the Hart Road right-of-way pursuant to the Intergovernmental Agreement; and

WHEREAS, the Village and City desire to cooperate further together to amend the Intergovernmental Agreement provide for an alteration of jurisdictional boundaries and responsibilities to provide continuity and simplify the jurisdictional boundaries and responsibilities.

NOW, THEREFORE, in consideration of the above preamble and mutual promises and covenants contained herein, both the Village and the City agree to amend and restate the Hart Road Agreement in its entirety as follows:

1. The recitals set forth above are incorporated herein as material components of this Agreement.

2. The new jurisdictional divide shall become the intersection of Hart Road and Wind Energy Pass/Hartfield Drive, and any agreements affecting the boundary between the Village and the City shall be amended by this Agreement accordingly. In order to accomplish the change, the City shall take action to disconnect that portion of Hart Road presently in its jurisdiction south of Wind Energy Pass, and the Village shall take action to disconnect that portion of Hart Road presently in its jurisdiction north of and including the Wind Energy Pass

intersection; and, immediately following the respective disconnections, each party shall take action to annex that portion of Hart Road that was disconnected by the other. The action to disconnect the properties shall be accomplished within one hundred twenty (120) days, and the annexations shall take place with sixty (60) days after the respective actions disconnecting.

3. All work in the right-of-way shall require proper notification by the City and Village.

4. Any repair of existing utilities, roadway, and/or rights-of-way done by either the Village or City shall include reparation and restoration to the pre-existing condition or to a mutually agreeable condition.

5. The parties shall coordinate and agree on the installation of additional utilities in the right-of-ways, subject to the restoration conditions as stated in Section 3 above.

6. The City shall be responsible for snowplowing Hart Road from the intersection with Hartfield Drive/Wind Energy Pass north, and the Village shall be responsible for snowplowing Hart Road from the intersection of Hartfield Drive/Wind Energy Pass south.

7. Each party shall be responsible for the repair and resurfacing of their respective portions Hart Road as defined herein.

8. Parkway tree trimming and removal shall be the responsibility of the respective municipalities for the portions of right-of-way in their respective jurisdictions; however, parkway tree removal shall require consent from the other municipality, and each tree removed shall be replaced with a tree of an approved species per the relevant code of the party replacing the tree.

9. The parties shall be responsible to mow the parkways for the stretch of Hart Road in each municipality, except that the City shall mow the parkway on the east side of Hart Road south of Hartfield Drive/Wind Energy Pass to the southern City limits, and the Village shall mow the parkway on the west side of Hart Road north of Hartfield Drive/Wind Energy Pass to the Village limits at Ritter.

10. The failure of either party, at any time, to insist upon strict performance or observation of any term, covenant, agreement or condition contained herein shall not in any manner be construed as waiver of any right to enforce any term covenant, agreement or condition of this Agreement in the future.

11. No purported oral amendment, change or alteration hereto shall be allowed. Any amendment hereto shall be in writing, approved by the governing body of each party hereto and signed the authorized representatives of both parties.

12. This Agreement shall inure to the benefit of the parties hereto their heirs, successors and assigns.

13. This Agreement amends and restates the Hart Road Agreement in its entirety.

14. This Agreement shall be effective upon the latter of the formal action to approve this Agreement by both parties.

CITY OF BATAVIA

VILLAGE OF NORTH AURORA

Mayor

President

ATTEST:

Attest:

City Clerk

Village Clerk

Dated _____, 2016

Dated _____, 2016

**INTERGOVERNMENTAL AGREEMENT FOR
MAINTENANCE AND UTILITY LOCATION IN
HART ROAD RIGHT-OF-WAY**

This Agreement entered into this 13th day of April, 1998 by and between the Village of North Aurora (hereinafter the "Village") and the City of Batavia (hereinafter the "City") both municipal corporations of the State of Illinois.

WITNESSETH

WHEREAS, the Illinois Constitution of 1970, Article VII, Section 10 and 5 ILCS 220/1 *et seq.* authorizes the Village and City to cooperate in the performance of their respective duties and responsibilities by contract and other agreement; and,

WHEREAS, the Village and City have, by annexation, acquired separate but contiguous portions of the Hart Road right-of-way, south of the south line of Section 27, Township 39 North, Range 8 East of the Third Principal Meridian, the agreed upon boundary between the Village and City, west of Hart Road, as shown on attached Exhibit A; and,

WHEREAS, the Village and City have certain maintenance responsibilities for the roadway and utilities in the Hart Road right-of-way; and

WHEREAS, the Village and City desire to cooperate among themselves to accomplish said maintenance of the roadway and utilities in the Hart Road right-of-way.

NOW, THEREFORE, in consideration of the above preamble and mutual promise and covenants contained herein, both the Village and the City agree as follows:

1. All work in the right-of-way shall require a permit authorized by the City and Village to assure proper notification.
2. Repair of existing utilities will be done by the Village or City or their agents and the roadway and right-of-way shall be repaired to its pre-existing condition or to a mutually agreeable condition.
3. Installation of additional utilities in the right-of-way shall be by mutual agreement with restoration requirements as stated in 2 above.
4. The City shall be responsible for snowplowing Hart Road from the intersection with Hartfield Drive north. The Village shall be responsible for snowplowing its portion of Hart Road from the intersection of Hartfield Drive south.

5. Repair and resurfacing of Hart Road shall be done at a mutually agreed upon time with financial obligations based on a ratio of right-of-way ownership. If either party has not obligated funds for Hart Road maintenance at said mutually agreed upon time, that party shall reimburse the other party its proportionate share within one year of the completed work.
6. This agreement shall be effective upon approval by the respective legislative bodies of the Village and City.
7. The failure of the Village or the City, at any time, to insist upon performance or observation of any term, covenant, agreement or condition contained herein shall not in any manner be construed as waiver of any right to enforce any term, covenant, or condition herein contained.
8. No purported oral amendment, change or alteration hereto shall be allowed. Any amendment hereto shall be in writing, approved by the governing body of each party hereto and signed by their respective president, chairman or mayor.
9. This agreement shall inure to the benefit of the parties hereto their heirs, successors and assigns.

Dated at Batavia, Illinois this 1st day of June, 1998.

Dated at North Aurora, Illinois, this 13th day of April, 1998.

ATTEST:

VILLAGE OF NORTH AURORA

By: Barbara Erickson
Village Clerk

By: Mark Ruff
President, Village of North Aurora



CITY OF BATAVIA

By: Penelope L. Tracy
City Clerk

By: Jeffery D. Sheelke
Mayor, City of Batavia

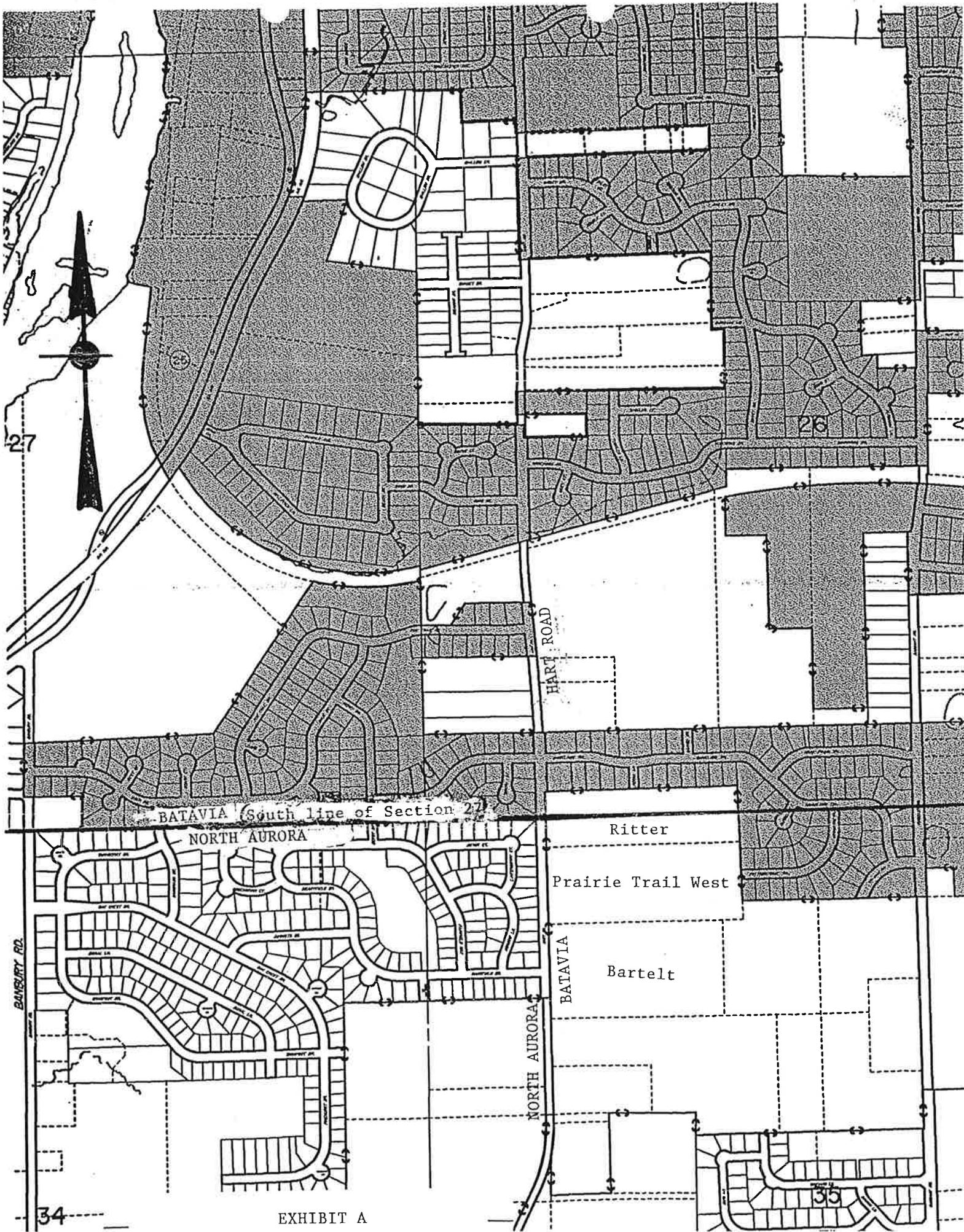
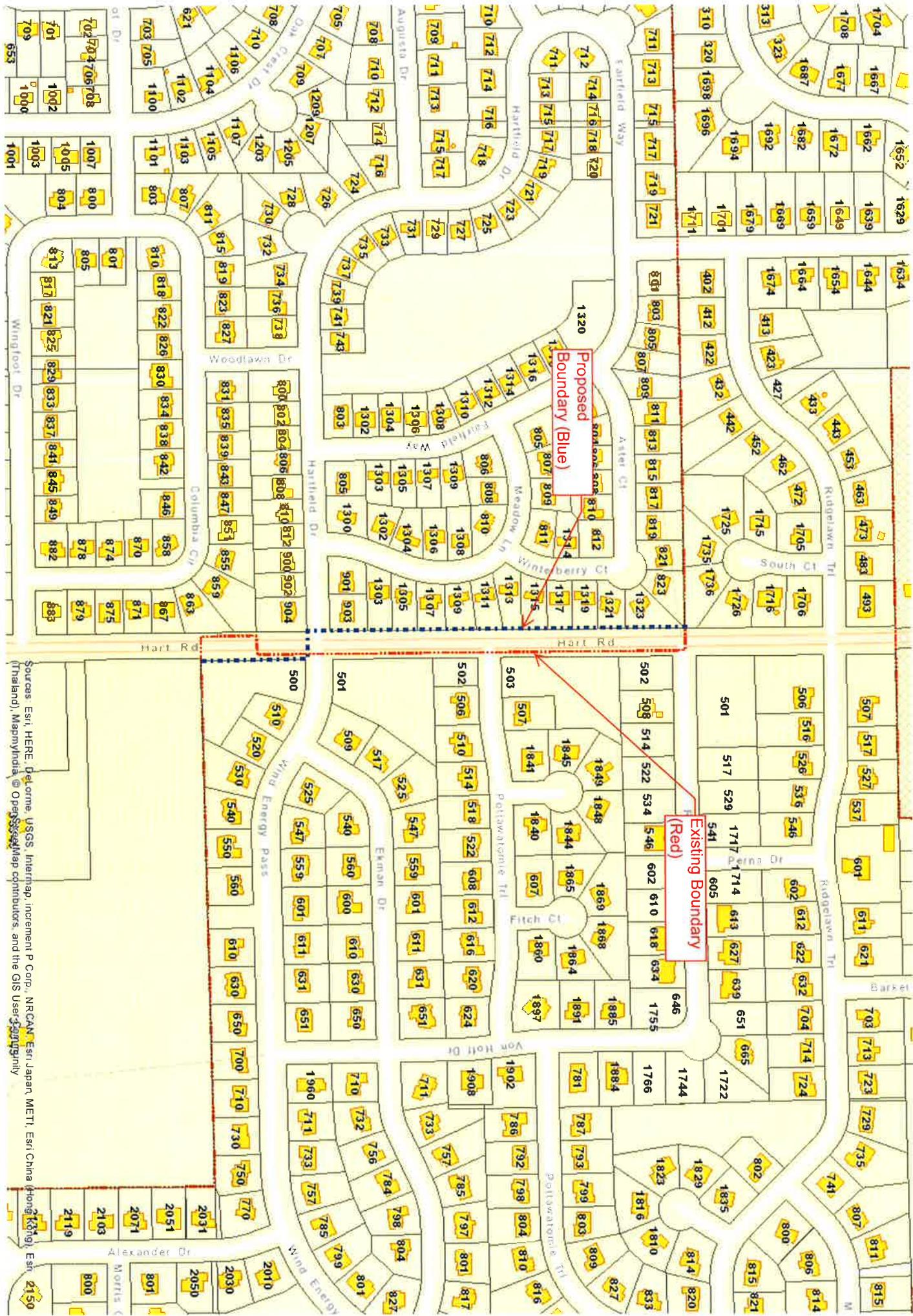


EXHIBIT A

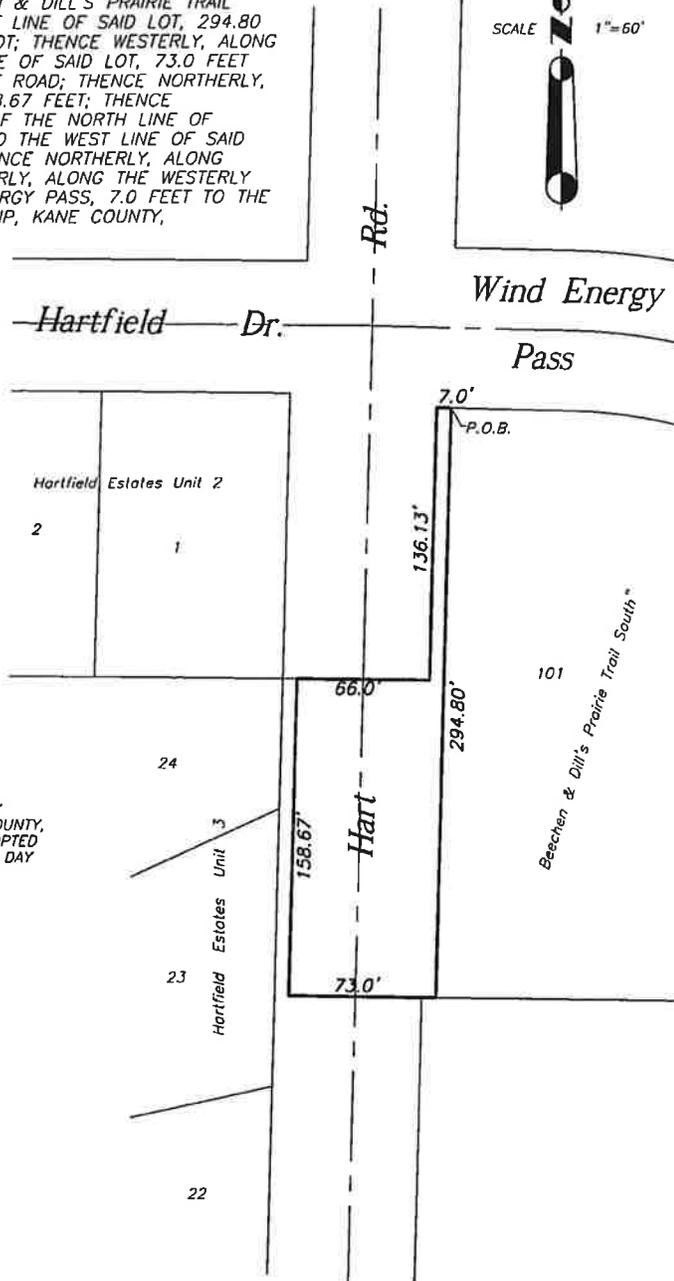


Sources: Esri, HERE, DeLorme, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Swisstopo, Mapbox, Mapbox, OpenStreetMap contributors, and the GIS User Community

Plat of Disconnection from the City of Batavia, Illinois

DESCRIPTION OF PROPERTY HEREBY DISCONNECTED: THAT PART OF HART ROAD RIGHT OF WAY IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 35, TOWNSHIP 39 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT 101 IN BEECHEN & DILL'S PRAIRIE TRAIL SOUTH; THENCE SOUTHERLY, ALONG THE WEST LINE OF SAID LOT, 294.80 FEET TO THE SOUTHWEST CORNER OF SAID LOT; THENCE WESTERLY, ALONG THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT, 73.0 FEET TO THE FORMER RIGHT OF WAY LINE OF HART ROAD; THENCE NORTHERLY, ALONG SAID FORMER RIGHT OF WAY LINE, 158.67 FEET; THENCE EASTERLY, ALONG THE EASTERLY EXTENSION OF THE NORTH LINE OF HARTFIELD ESTATES UNIT THREE, 66.0 FEET TO THE WEST LINE OF SAID BEECHEN & DILL'S PRAIRIE TRAIL SOUTH; THENCE NORTHERLY, ALONG SAID WEST LINE, 136.13 FEET; THENCE EASTERLY, ALONG THE WESTERLY EXTENSION OF THE SOUTH LINE OF WIND ENERGY PASS, 7.0 FEET TO THE POINT OF BEGINNING, ALL IN BATAVIA TOWNSHIP, KANE COUNTY, ILLINOIS.

SCALE 1"=60'



STATE OF ILLINOIS)
COUNTY OF KANE)

THE PROPERTY DESCRIBED HEREON IS HEREBY DISCONNECTED FROM THE CITY OF BATAVIA, KANE COUNTY, ILLINOIS BY ORDINANCE NO. _____ ADOPTED BY THE CITY COUNCIL OF SAID CITY ON THE _____ DAY OF _____, 20____.

BY: _____
MAYOR

ATTEST: _____
CITY CLERK

STATE OF ILLINOIS)
COUNTY OF DEKALB)

THIS IS TO CERTIFY THAT I, SHAWN R. VanKAMPEN, ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 2710 HAVE PREPARED THE ATTACHED PLAT FOR DISCONNECTION PURPOSES AND THAT SAID PLAT IS A TRUE AND CORRECT REPRESENTATION OF SAID DISCONNECTION.

DATED AT DEKALB, ILLINOIS THIS 9TH DAY OF DECEMBER, 2015.

FOR: CITY OF BATAVIA
JOB NO. WES 13384A

SHAWN R. VanKAMPEN
ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 2710
LICENSE EXPIRATION DATE: NOVEMBER 30TH, 2016

Prepared by:
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CITY OF BATAVIA

DATE: June 3, 2016
TO: Committee of the Whole-CS
FROM: Scott Buening, Community Development Director
SUBJECT: Continued Discussion: Implementing Contractor Registration in the City of Batavia

1. **Summary:** Continued discussion regarding beginning a contractor registration program in the City.
2. **Background:** City staff brought this forward to the Committee at their meeting on March 1, 2016, which was continued to March 15, 2016. The Committee had significant discussion on the positives and negatives of the program. In the end staff was directed to compile a list of problem situations we have encountered recently, and bring these back to the Committee in June. We are now providing this information to the Committee for further consideration. We currently have about two dozen situations where we feel contractor registration would have been helpful as noted on the attached list.

Staff does encounter “problem” contractors on a regular basis. From doing work without permits, failing inspections multiple times, doing shoddy work or just taking deposits and leaving without doing work are all too common situations. These circumstances leave homeowners with little recourse other than to file a lawsuit and hope to recover their money (and legal fees) from an entity that might no longer even exist.

We feel that by instituting a contractor registration program it would be helpful for citizens to get assistance in the event things go awry with their hired contractors. Filing a claim on their insurance, drawing on their bond or revoking the license would all be remedies to help these homeowners and to discourage disreputable contractors from working in the City.

+++++

City staff raised the idea of contractor registration back on May 26, 2015. The Committee discussed this and determined it was something that they did not want to proceed with at that time, but wanted staff to bring this back in a year. During some conversations at a recent COW meeting, several aldermen brought up contractor registration again. They indicated that they had been approached by local business owners that were interested in having the City implement this program. They felt that the program would help protect local businesses and residents from less reputable contractors.

Staff is now bringing this program forward again for further committee discussion. We have provided the information presented previously as a way to restart the discussion about this program. In summary, staff was suggesting the following:

- Registration for contractors would be required for any work that requires a permit.

- Annual Fee for any contractor (general or subcontractor) would be \$100.00. Registration would be renewed on January 1 of each year.
- We would prorate initial registrations on a quarterly basis (i.e. applications from October-December would pay 25% or \$25.00 fee).
- \$10,000 Surety Bond would be required.
- \$1,000,000 in general liability insurance would be required.
- Workers Compensation and Auto Liability would need to follow State Law (we would not require anything additional).
- Roofing, plumbing and irrigation contractors that are licensed by the State would pay a discounted \$25.00 annual registration fee. These contractors would need to provide proof of license and bonding from the State.
- We would include an allowance to revoke the registration and prohibit work within the City. The registration would be revocable for violations of local or State laws, or violations of building code. An appeal process to the City Council would be developed if the existing process under the building code does not apply.
- First year of implementation would be free to get applicants to sign up.
- Homeowners doing work on their own principal residence would be exempted from the registration requirement.

Staff would like to have the Committee discuss the proposal to implement a contractor registration program, and provide direction on whether or not to begin drafting an ordinance to put the program in place.

3. Alternatives, including no action if viable:

- **Pros:** Contractor registration allows the City to be aware of who is doing work in the City. It allows the homeowner or property owner the peace of mind that the City will be able to ensure quality work by contractors and that they will likely not “skip town” with their money. The program would provide incremental revenues to the City, but this is not intended to be a substantial revenue source for the City.
- **Cons:** The program will make the cost of doing work in the City slightly more expensive. The program will make Batavia the first of the tri-cities to implement a registration program. The program may seem “business unfriendly” due to the additional paperwork and costs contractors will incur.
- **Budget Impact:** We have an estimated 150 contractors (about 50 roofing/plumbing) that do work in the City annually. This would translate approximately to an additional \$11,250 in revenues annually. We do not intend to hire additional staff for this program, therefore there would be no negative effect on the budget.

- **Staffing Impact:** No impact on staffing as we are not intending to hire staff for this program.
4. **Timeline for actions:** There is no specific timeline as this has been a continuing internal discussion for some time.
 5. **Staff recommendation:** **Staff recommends that the Committee review the contractor registration program and provide direction to staff on whether or not to draft an Ordinance that would implement this program.**

Attachments:

1. Memo dated May 23, 2016 listing recent contractor issues.
2. Minutes of March 15, 2016 Committee meeting.
3. Contractor Registration Survey from 2013.



CITY OF BATAVIA

JEFFERY D. SCHIELKE
Mayor

5/23/2016

MEMO

TO: Scott Buening
Jeff Albertson

FROM: Toby Petrie

The following is a list of construction activity conducted by contractors who in the opinion of staff were either less than qualified or less than reputable in said activity, as described below. Feel free to contact me if you have any questions. Thank you.

Address	Permit #	Comments
XXX Ridgelawn Trl.	2016XXXX	Work completed without a permit. Posted Stop Work. Permit Issued. Basement finishing by contractor unfamiliar with electrical codes. Poorly installed wiring.
XXXX Danforth Dr.	2015XXXX	Screen porch not built to architect-stamped specifications. Contractor abandoned job. Homeowner forced to finish work.
XXX W. Wilson St.	2014XXXX	Windows installed without first obtaining a permit. Posted Stop Work. Permit Issued.
XXX S. River St.	2014XXXX	Apparent 3rd layer of roofing installed (max 2/code). Work allegedly by homeowner. Then contractor claimed responsibility, but failed to provide an ILL Roofing License.
XXX S. River St.	NONE	>3'tall retaining wall installed without permit (local contractor). Stop Work order posted. Work continued.
XXX Fayette St.	2013XXXX	Remodeling work being completed by various contractors. Multiple "failed" inspections. Permit is still open.
XXX State St.	2014XXXX	Remodeling work being completed by various contractors. Multiple "failed" inspections. Permit is still open.
XXXX S. Jackson St.	2014XXXX	House Flipper. Multiple "failed" inspections. Unqualified subcontractors.
XXXX Mill St.	2014XXXX	Commercial alteration completed without permit. After-the-fact permit obtained. Multiple "failed" inspections. Permit is still open.
XXX S. Van Buren St.	2014XXXX	Residential Alteration. Work completed with no inspections by contractor. Contractor abandoned job.

Address	Permit #	Comments
		Permit is still open.
XXX N. Batavia Av.	2013XXXX	Residential Rental Property Alteration. Multiple "failed" inspections. Unqualified subcontractors.
XXX W. Fabyan Pkwy.	2013XXXX	Commercial Alteration. Multiple "failed" inspections. Last inspection, 12/10/13. Permit is still open.
XXX Spring St.	2013XXXX	House Flipper. Multiple "failed" inspections. Unqualified subcontractors.
XXX Adams St.	2013XXXX	House Flipper. Inspections served as "punchlist" for contractor. Unqualified contractor.
XX N. Island Av.	2013XXXX	Commercial Alteration. Multiple "failed" inspections. Permit is still open.
XXX N. Randall Rd.	2013XXXX	New Car Wash. Multiple "failed" inspections. Permit is still open.
XXX Sylvan Pl.	2013XXXX	Residential Alteration. Spray foam insulation in attic does not meet fire protection requirements. Contractor has abandoned project.
XXX S Harrison St.	2015XXXX	House Flipper. Multiple "failed" inspections. Unqualified subcontractors.
XXX Rocksbury Ct.	2015XXXX	Residential Alteration. Multiple "failed" inspections. Contractor abandoned job. Permit is still open.
XXX Mather Ln.	2015XXXX	House Flipper. Stop Work Order posted. After-The-Fact permit was obtained. Multiple "failed" inspections. Contractor abandoned job. New contractor completed work
XXX Iroquis Dr.	2015XXXX	House Flipper. Multiple "failed" inspections. Unqualified subcontractors. Inspections served as "punchlist" for subcontractors.
XXXX Pine St.	2015XXXX	Residential Alteration. Multiple "failed" inspections. Unqualified subcontractors. Inspections served as "punchlist" for subcontractors.
XXXX Flag Day Rd.	2016XXXX	Residential Alteration. Construction without permit. Posted "Stop Work". Obtained permit listing "owners" as contractor. Covered areas without inspection. Multiple "failed" inspections. Met "Contractor" on site at re-rough.

Respectfully Submitted,

Toby Petrie
Building Inspector

Buening stated that at this point, it does not seem that there is enough interest by the Committee to proceed with the study at this point of time. However, the Committee would like to explore options locally with incentives. Stark stated that she is hearing, as of right now, we do not want to pursue paying for the CLT study. We do need to have further discussion so that we can give staff direction in terms of staying with our comprehensive plan, helping to decide what we are going to do with the pieces of land long term. Stark asked the Committee to ponder the 'not in my backyard' issue that we always seem to come up against.

7. Ordinance 16-14: Annex Part of BNR ROW Burlington Northern Railroad Right-of-Way (Scott Buening 2/29/16) CD

The COW referred to the memo.

Motion: To recommend approval of Ordinance 16-14: Annex Part of BNR ROW Burlington Northern Railroad Right-of-Way
Maker: Hohmann
Second: Mueller
Voice Vote: 12 Ayes, 0 Nays, 2 Absent
Motion carried.

Buening noted that on the 21st there would be a Public Hearing on the annexation.

8. Discussion: Implementing Contractor Registration in the City of Batavia (Continued) (SCB 2/10/16) CS

Wolff reported that this discussion has been held in the past. He stated that he has no problem with the City going with this because it would provide a better service to the community. He noted that even though staff states that there would be no impact if we are adding something to their jobs it would impact them. Callahan stated that he is in support of this based on what he has heard from contractors and developers. He has heard also from residents in town. There should be an extra layer of municipal government over those who are already licensed. The state already licenses them but currently there are no regulations on the municipal level. He stated that a person should be able to hire someone who is not on the list without any extra cost. There should be a waiver stating that they know that the contractor is not on the list and they do not have to be.

Jason Stubbes, 1051 Crystal Court, commented that he works with contractors in town and out of town and he likes working with people he knows. He sees the benefit but he feels that there are some negatives to this. He asked how the average homeowner would even know that there is a list. Buening stated that if someone inquired then staff would be able to provide the list. The list is not a recommendation. On a regular basis we get contractors contacting the City assuming we have contractor registration and a lot of contractors expect that there is that program. Stubbes asked what happens if there is a bad contractor on the list. Buening stated that there would be an ability to revoke a contractor from the list. Stubbes asked if there would any liability to the City. Buening stated that these would be registered contractors but the City could not recommend anyone. Stubbes suggested that the language be very clear on something like that.

McGrath stated that we need to ask how much do we protect a person to demand an insurance policy. He would have to talk to other towns but he could see the City being pulled into the

middle of a contractor-homeowner conflict. He would like to talk to other towns to see how it really works. Mueller asked how common is this type of program. Buening answered that Sugar Grove and North Aurora has this currently. There are a lot of towns that have this. Mueller stated that her contractor husband does this often and she feels that it is a common program. Stark stated that South Elgin does not do this. St. Charles, Geneva and Yorkville do not and there are as many who don't than do. Her husband has been a contractor for a number of years and he does carry liability insurance and has an insurance bond and he doesn't need to City to tell him to. Mueller stated that a program like this weeds out the contractors who do not have those things. Fischer stated that you may not call it a preferred vendor list but it looks like that with this list and the City would then become the middleman for the complaints.

Brown stated that he is not in support of this. This was brought up last year and we told staff to go back and keep track of instances that if we had required people to be licensed then it would have solved the problems. This was brought up again due to the Town Hall meeting and he does not see any compelling reason as to why this should be done. Stark questioned that, when we consider a subcontractor, who has to be licensed. She stated that this would be much more work than what it is worth. McFadden stated that this program offers a lot for companies that operate with proper insurance.

The Committee decided to table this discussion for three months. Brown stated that he would like to see some solid reasons why this should go into effect. Cerone stated that he would like to have time to talk to contractors about this and do research. McGrath noted that the larger the community the more likely they have contractor registration.

9. Ordinances 16-09 and 16-10: Variances and Conditional Use for a Drive Through Eating Establishment – Dunkin Donuts/Shell Gas Station, 108 N. Batavia Avenue (Joel Strassman 3/10/16) CD

This discussion was moved to number six. Buening reported that staff prepared revised ordinances for the variances and a new ordinance for the conditional use. Staff has met with the petitioner and there are several conditions that we need direction from the Committee of the Whole (COW). Buening discussed the recommended conditions with the Committee:

1. Additional landscaping is added adjacent to the north parking spaces, with Plan Commission design review approval;
 - Buening stated that this would go to the Plan Commission (PC) for consideration as part of the design review process.
2. A curb is added to the west end of the north parking area, extending west to meet the Batavia Avenue sidewalk, similar to what is proposed for the south parking; inside this area shall be suitable landscaping, including a tree, with Plan Commission design review approval;
 - Buening stated that this would go back to the PC as part of the Design Review, especially regarding the location of the tree.
3. The area south and west of the west end curb for the new south parking spaces shall be suitably landscaped, including a tree, with Plan Commission design review approval.
 - Buening stated that this would go back to the PC as part of the Design Review.
4. No illuminated elements are allowed to be added to the north canopy edge;

CONTRACTOR REGISTRATION SURVEY

Insurance

Other

MUNICIPALITY	Registration	Fee	Type	Bond	Gen Liab	WC	Auto	Other
RECOMMENDATION	YES	\$150	ANY WHOSE WORK REQUIRES PERMIT ALL, but painters/flooring/indscp maint	\$10,000 EACH, EXC PL \$20,000 GC; \$10,000 ONLY HV & CARP	\$1,000,000	IL LAW - no proof	IL LAW - no proof	LIC FOR ROOF, PL, IRRIG. ALL PAY OR DON'T ONLY N/C PL AND EL ALARM & SPRINKLER TO CK W/FIRE TOO
SUGAR GROVE	YES	\$165	GC, Sign, HVAC, Elect, Roof	20000	\$2,000,000	IL Law	\$1,000,000	License for roofing/plumbing/electric/irrigation
Aurora	Yes	\$200 new, then \$100	All but no E, PL, Alarm	only Dem & Swr	none	IL Law	none	Background check by PD & crime ?
Arlington Heights	Yes	\$130 or \$60	All	10000	\$1,000,000	IL Law	none	License for Electrician, roofing, plumbing
Bartlett	Yes	\$100 GC; \$50 Subs	All	none	only GC			License for Electrician, roofing, plumbing
Barrington	Yes	\$75	All					License for Electrician, roofing, plumbing
Batavia	No							
Bolingbrook	Yes	\$260 GC; \$160 Subs	All	\$20,000 or 10%	\$300,000	none	none	License for Electrician, roofing, Irrigation
Channahon	Yes	\$150 GC; \$100 Subs	All	none	\$300,000	IL Law	none	License for Electrician, roofing, Irrigation & plumbing
Carol Stream	No							
Crystal Lake	No but requires bond	\$0	Certain trades	10000	none	none	none	State license for roofing & plumbing
DeKalb	Yes	\$250 then \$50	Elect/Plumb/HVAC/ROW only	10000	none	none	none	
Downers Grove	Only Electrical	\$0						License for roofing & plumbing
Elburn	No							License for Electrician, roofing, plumbing, fire sprinkler & hvac
Elgin	No-license only			\$20,000 for HVAC & Sewer	none	none	none	State license for roofing & plumbing
Geneva	No		Only ROW		\$1,000,000			
Huntley	Yes	\$25 +\$10 for ea trade	1/2 after July 15th for all trades	\$10,000 for row or easements	\$1,000,000			
Lemont	Yes	\$200 GC; \$75 Subs	All (no chg for pl, elect, alarm indscp)	\$25,000*	250000 injury	not <\$100,000	none	\$100,000 prop damage ins; License for Elect, roof, Irrig, plum
Lisle	No							
Montgomery	Yes	\$125	All	none	yes certificate nothing else specified			License for Electrician, roofing, plumbing - no charge

Insurance

CONTRACTOR REGISTRATION SURVEY

MUNICIPALITY	Registration	Fee	Type	Bond	Gen Liab	WC	Auto	Other
Morris	Yes	\$200	GC	20000	\$300,000	IL Law	\$300,000	
		\$100	All Subs	10000	\$300,000	IL Law	\$300,000	
Naperville	Yes	Elec\$50; PL\$25;RO W\$30	Elect/Plumb/ROW only	\$10,000 Elect only	Only Elect		none	License for Elec, plumbing and Engineer approval for ROW
New Lenox	Yes	\$150	All but no chg for pl or sprinkler	10000	\$1,000,000	500000	none	License for roofing, plumbing & sprinkler
North Aurora	Yes	\$150; \$25 if state license	All	20000	yes certificate nothing else specified			License required for Electrician, plumbing, roofing, sprinkler
Oswego	Yes	\$250	GC	20000	\$2,500,000	500000	\$500,000	
	Yes	\$100	All Subs	10000	\$1,500,000	500000	\$200,000	License required for Electrician, plumbing, roofing
Plainfield	Yes	\$50	All but no chg for pl or sprinkler	GC & roofer \$10,000	\$1,000,000	none	none	License required for Electrician, plumbing, roofing sprinkler
Plano	No							
Romeoville	Yes	\$150 GC; \$75 Subs; no pl	All	\$10,000 except pl	\$300,000inj	1000000	none	\$25,000 prop damage ins; License for Elect, roof, plumber plumbing
Sandwich	No							
South Elgin	No		Only state license copies					
St. Charles	No							
Sycamore	No	only \$ for elect test	Elect City test & PI 055/058 & PL #					
Warrenville	Yes	Only Elec \$35 \$195 Initial; \$145 Renewal	Elect/Roofers only	\$5,000 Elect.	yes			License required for Electrician and roofing
West Chicago	Yes	\$25	All	10000	\$250,000	1000000		\$100,000 property damage insurance cert
Wheaton	Yes	\$25	All except pl, alarm, roof, irrig, sprinklr or elect	10000	\$1,000,000**			**Ins Cert for Irrig, ROW, house moving
Wilmington	Yes	\$100	All but no chg for pl, sprinkler or roofer	none	yes certificate for liability & WC only			License required for plumber and roofer
Winfield	Yes	\$250 GC; 1/2 after 8/1		20000	\$1,000,000	IL Law	\$500,000	All renew 1/31 annually
Yorkville	No	\$100 sub; 1/2 after 8/1	All but elect \$25; HVAC \$40 and 0 if other license	\$10000 except pl	\$500,000	IL Law	\$500,000	All renew 1/31 annually

* requires specific language in their bond.

CITY OF BATAVIA

MEMO TO: Committee of the Whole, June 21, 2016
City Services Committee

FROM: Ed Jancauskas
Deputy Fire Chief

DATE: June 13, 2016

SUBJECT: Ordinance 16-37, Declaration of Surplus

The Fire Department is seeking to declare some equipment and gear as surplus. All of the items are either obsolete, fail to meet current standards, or are no longer needed by the department. The items include:

- 11 sets of turnout gear that have been used for training and are worn beyond repair and no longer meet NFPA standards
- 5 nozzles that are no longer used
- Various radio equipment that is not narrow band compliant
- Several old radios that are a different bandwidth than our current radios

Since the turnout gear no longer meets NFPA standards for the United States, I am recommending that they be offered to under resourced fire departments outside the United States. Two groups that work together to package and ship gear to the needed areas are Hearts in Motion and Firefighter Hearts United. These non-for-profit groups also provide a release from liability waiver for gear and equipment they repurpose.

We will attempt to sell the nozzles, and some of the radios, but because of their age and condition it is doubtful that they will sell for anything. If they do not sell, I recommend they be sent with the turnout gear.

Staff Recommendation:

Staff recommends Ordinance 16-37 declaring the items above as surplus and if any of the items do not sell that they be donated to Hearts in Motion and Firefighter Hearts United.

Recommended Committee Action:

Approve Ordinance 16-37 and bring it to the City Council for approval at their July 5th 2016 meeting.

Copies: Jeffrey Schielke, Mayor
City Council
William McGrath, City Administrator
Heidi Wetzel, City Clerk
Randy Deicke, Fire Chief

CITY OF BATAVIA

ORDINANCE 16-37

**AN ORDINANCE DECLARING CERTAIN PROPERTY TO
BE SURPLUS AND AUTHORIZING SALE OR DONATION
THEREOF**

**ADOPTED BY THE
MAYOR AND CITY COUNCIL
THIS 5TH DAY OF JULY, 2016**

Published in pamphlet form
by authority of the Mayor
and City Council of the City of Batavia,
Kane & DuPage Counties, Illinois
This 5th day of July, 2016

Prepared by:

City of Batavia
100 N. Island Ave.
Batavia, IL 60510

**CITY OF BATAVIA, ILLINOIS
ORDINANCE 16-37**

**AN ORDINANCE DECLARING CERTAIN PROPERTY TO BE
SURPLUS AND AUTHORIZING SALE OR DONATION THEREOF**

WHEREAS, in the opinion of the corporate authorities of the City of Batavia, it is no longer necessary or useful to or for the best interest of the City to retain the following described property:

Eleven sets of turnout gear
Five nozzles
Radio equipment that is not narrow band compliant
Several old radios

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Batavia, Kane and DuPage Counties, Illinois, as follows:

SECTION 1: Pursuant to Section 11-76-4 of the Illinois Municipal Code, the City Council finds that the following described personal property:

Eleven sets of turnout gear
Five nozzles
Radio equipment that is not narrow band compliant
Several old radios

is currently owned by the City, and is no longer necessary or useful to the City of Batavia and the best interest of the City will be served by their sale or donation.

SECTION 2: Pursuant to Section 11-76-4, the City of Batavia Fire Department be, and is hereby authorized and directed to sell or donated said above described property.

SECTION 3: This Ordinance shall be in full force and effect from and after its passage and approval in the manner provided by law:

CITY OF BATAVIA, ILLINOIS ORDINANCE 16-37

PRESENTED to and **PASSED** by the City Council of the City of Batavia, Illinois, this 5th day of July, 2016.

APPROVED by me as Mayor of said City of Batavia, Illinois, this 5th day of July, 2016.

Jeffery D Schielke, Mayor

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	O'Brien					Fischer				
2	Callahan					Wolff				
3	Hohmann					Chanzit				
4	Mueller					Stark				
5	Botterman					Thein Atac				
6	Cerone					Russotto				
7	McFadden					Brown				
Mayor Schielke										
VOTE:		Ayes	Nays	Absent	Abstention(s)					
Total holding office:		Mayor and 14 aldermen								

ATTEST:

Christine Simkins, Deputy City Clerk

CITY OF BATAVIA

DATE: June 2, 2016
TO: Committee of the Whole-GS
FROM: Scott Buening, Community Development Director
SUBJECT: Discussion: Street Naming-South Drive

1. **Summary:** Discussion on possible renaming of South Drive.
2. **Background:** In 2003 when the Fabyan-Randall (Wal-Mart) subdivision was platted, the public road known as South Drive was dedicated. As far as staff can tell, this name was a carryover from the original site plans that designated “street names” for the internal access drives within the development. The southern drive was called “South Drive” and when this was dedicated as a public street, this name stuck.

We are now being approached by developers that are interested in building on some of the vacant land along this road. Currently there are no buildings that use a South Drive address. The name South Drive can in itself be a bit misleading since it is located at the northern part of the City. In addition, there is already a street called South Court, but that is located at the southern end of the community as would be expected.

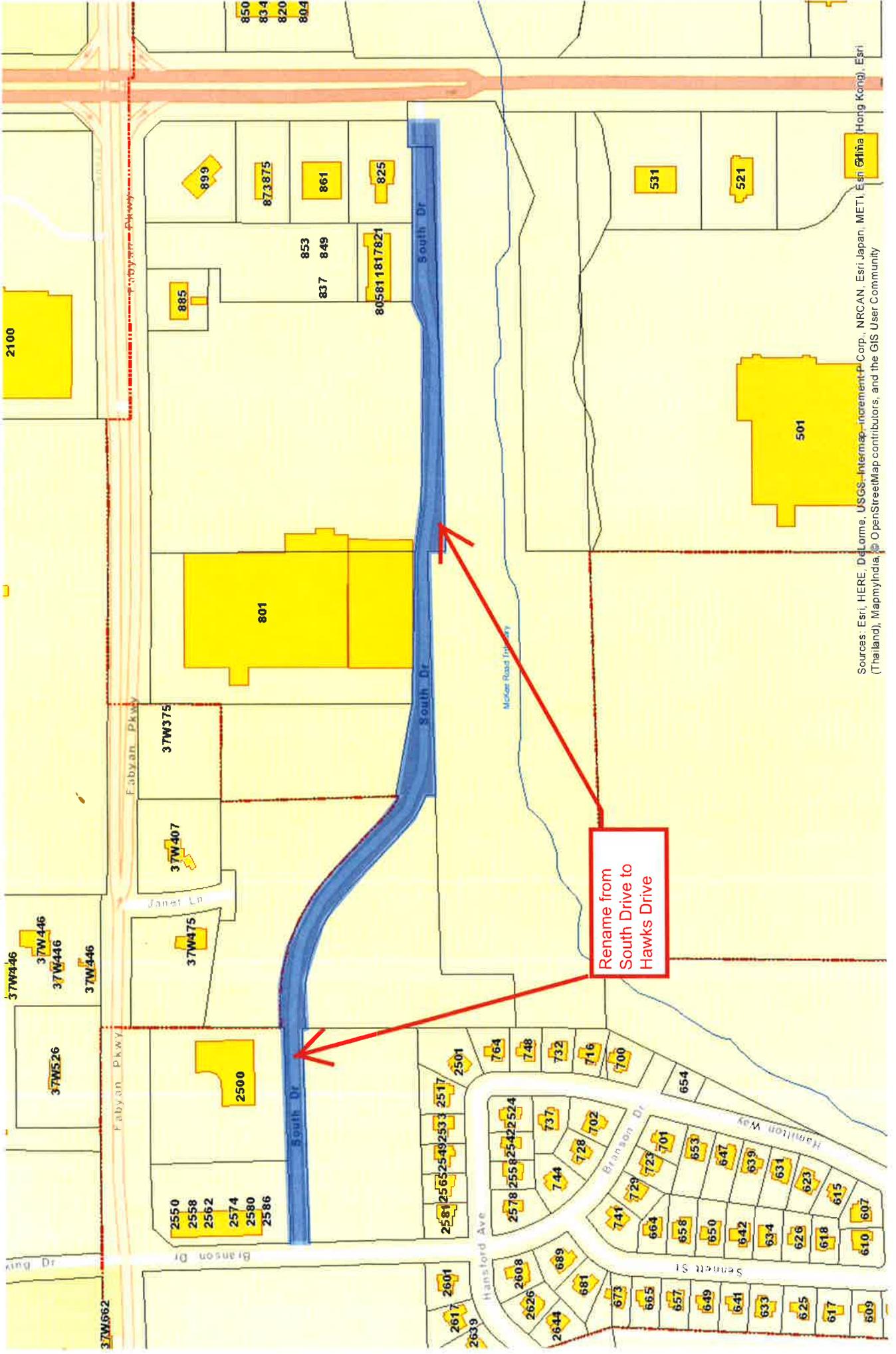
During the development review process, it was suggested to change the name of this street at this time. After consultation with the Mayor, the name “Hawks Drive” was suggested. This name is appropriate in that the Hawks family has historically owned property in this area, including where this road traverses. Furthermore, in consideration of the Braeburn Marsh that is adjacent to this area, hawks can be seen flying over the wetland area, which gives a double meaning to this name.

Staff would like to have the Committee discuss the possible renaming of South Drive and provide direction to staff on how to proceed.

3. **Alternatives, including no action if viable:**
 - **Pros** Changing the name will clarify the names for emergency response, legal and postal purposes. It will also give a more significant, historical name for the street. No buildings are using this street name currently.
 - **Cons** Changes to the street name may cause directional issues with GPS devices until updates can be made.
 - **Budget Impact** There would be no significant budget impact on the City other than passing and recording an ordinance, and changing two street name signs.
 - **Staffing Impact** No significant impact on staffing.
4. **Timeline for actions:** There is no specific timeline as this issue has been continuing for a number of years.
5. **Staff recommendation:** Staff recommends that the Committee direct staff to prepare an Ordinance renaming South Drive to Hawks Drive.

Attachments:

1. Area Map.



Rename from South Drive to Hawks Drive

Sources: Esri, HERE, DeLorme, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), MapmyIndia, © OpenStreetMap contributors, and the GIS User Community

CITY OF BATAVIA

DATE: June 10, 2016
TO: Committee of the Whole-GS
FROM: Scott Buening, Community Development Director
SUBJECT: Discussion: Short Term Home Rentals (AirBNB)

1. **Summary:** Discussion regarding short term rental regulations (AirBNB rental-type sites).
2. **Background:**

Due to complaints, several Aldermen by consensus directed staff to take a look at the short term accommodation rental market in the City of Batavia. Short term rentals are for less than 30 consecutive days and rental of more than 10 nights per calendar year. The complaints appeared to express concern about the expanding market and unregulated nature of short term home and room rentals in residential areas.

Staff has been monitoring this situation for a while, and in general there was only one rental unit for the past couple years or so. Shortly before the June 6 City Council meeting we became aware that this had increased to approximately 5 units that are being advertised for rent. These units vary from a single room to a basement “unit” to a whole house that is available for short term rental. Based on a search of AirBNB, these are located generally as follows:

- 400 Block Main Street
- 0-100 Block S. Harrison Street
- 2400 Block Bird Lane
- 300 Block N. Batavia Avenue
- Parkview/Pontiac Drive area

Under the terms of the City Zoning Code and the Bed and Breakfast Ordinance, all of these establishments would be regulated under these existing ordinances. Rentals that exceed 30 consecutive days are considered leased property and are not subject to these ordinances. Staff was recently contacted by one of these properties advertising on AirBNB, and the owners indicated they will be changing their policy to lease their home for 30 consecutive days or more, thus being in compliance with the existing ordinances. It should be noted that short term rental of non-owner occupied property is not allowed under the Bed and Breakfast Ordinances. Those situations are then considered Hotels or Inns, and are not permitted in single family residential areas.

Any short term rental of part of an owner occupied dwelling needs to comply with both the Zoning Code for a Bed and Breakfast Use, as well as obtain a Bed and Breakfast License (Title 3, Chapter 11). This essentially means those wishing to rent part of their home for temporary accommodations needs to first obtain a Conditional Use permit from the City, as well as comply with all of the requirements in the Bed and Breakfast License requirements. Serving of breakfast or meals is not a requirement of the codes, but if they elect to do so, they must follow County Health Codes as well as additional health requirements in the Bed and Breakfast Ordinance. Furthermore, these facilities are subject to the City Hotel Tax

(Title 3, Chapter 24). Any accommodations need to pay a hotel tax of 3% of the gross nightly receipts for each room rented. Per the terms of our agreement with the Convention and Visitors Bureau, 90% of this tax goes to pay for their services and the City retains 10% of this tax.

The Committee directed staff to look at this situation and present this information to them for further discussion. Staff feels we do have adequate protections in place for these types of facilities; however, they were not being actively enforced since we had not received complaints about the one rental unit. If the Committee wishes to have staff now enforce these codes, we will certainly do so.

3. Alternatives, including no action if viable:

- **Pros:** The enforcement of the current ordinances will allow the City to better regulate Bed and Breakfast uses in residential areas. The City will realize some additional taxes and fees from regulating these uses.
- **Cons:** The enforcement of these ordinances will make it costly and difficult for these facilities to continue operating if they rent for more than 10 nights per year. The ordinances were geared towards regulating larger, more regular operations.
- **Budget Impact:** The City would realize some hotel tax revenue from units that are rented. We would also realize fees from the Conditional Use process. We do not currently have a fee for the Bed and Breakfast License; that is something that could be implemented if desired by the Council.
- **Staffing Impact:** We do not intend to seek additional staff to enforce the current codes, but enforcement will require some minimal staff time for research and enforcement activities.

4. **Timeline for actions:** There is no specific timeline, but staff can begin enforcement proceedings immediately.

5. **Staff recommendation:** Staff recommends that the Committee discuss short term rentals and provide direction to staff on how to proceed.

Attachments:

1. Bed and Breakfast Ordinance.
2. Zoning Code Section (Residential).
3. Hotel Tax Ordinance.

Chapter 11

BED AND BREAKFAST ESTABLISHMENTS

3-11-1: DEFINITIONS:

The following terms shall have the following definitions for purposes of this chapter:

BED AND BREAKFAST ESTABLISHMENT: An operator occupied residence providing accommodations for a charge to the public with no more than five (5) guestrooms for rent, in operation for more than ten (10) nights in a twelve (12) month period. Breakfast may be provided to the guests only. Bed and breakfast establishments shall not include motels, hotels, boarding houses, or food service establishments.

GUESTROOM: A room for sleeping intended to serve no more than two (2) transient guests plus one child under the age of eighteen (18) per night.

OPERATOR: The owner of the bed and breakfast establishment, or the owner's agent, who is required by the act to reside in the bed and breakfast establishment, or on contiguous property, and to manage the operation of the establishment.

PERSON: An individual, partnership or joint venture, corporation, limited liability company or other entity. (Ord. 14-27, 5-19-2014)

3-11-2: BED AND BREAKFAST LICENSE REQUIRED:

- A. No person shall own or operate any bed and breakfast business located within the city unless there is a current, valid license for that business.

- B. A license may be issued only for one bed and breakfast business located at a fixed and certain place and any areas contiguous thereto. Any person who desires to operate more than one bed and breakfast business must have a license for each location.

- C. No person shall own or operate any bed and breakfast business unless the license is posted at or near the principal public entrance to the business or at the registration desk in such location that it will be conspicuous to patrons who enter the premises.

- D. Every license issued pursuant to this chapter will terminate on December 31 following its issuance, unless suspended or revoked, and must be renewed before operation is allowed in the following year. Any person desiring to renew a license shall make application to the community development department.

- E. A license issued under this chapter is personal to the licensee and may not be transferred or otherwise conveyed to a third party. Any transfer or conveyance of the business or more than a five percent (5%) change in stock ownership shall require the licensee or transferee to apply and otherwise qualify for the issuance of a new license. The transfer of a license or any interest in a license shall automatically and immediately revoke the license. (Ord. 14-27, 5-19-2014)

3-11-3: REQUIREMENTS FOR APPLICATION/LICENSE:

- A. The applicant/licensee must be a natural person who is the owner or the operator of the bed and breakfast or an authorized agent of the owner if the owner is a corporation or limited liability company.

- B. If the applicant/licensee is not a resident of Kane County at the time of the filing of the application, the applicant/licensee shall designate a resident agent living in Kane County who shall be authorized to receive notices and service of process under the terms of this chapter.

- C. If the owner is a corporation or limited liability company, the corporation or LLC must be chartered by and in good standing with the state of Illinois or chartered in a foreign state, in good standing in the state of incorporation or organization and registered to do business in the state of Illinois.

- D. Applications for a bed and breakfast license, whether original or renewal, must be made to the community development department, on forms provided by the city and shall include the following minimum information and documentation:
 - 1. Ownership information, including:
 - a. For individuals, the full name, residential address (and mailing address if different), age, and driver's license number of the applicant, and any and all aliases;

- b. For partnerships or joint ventures, the full names, residential addresses (and mailing addresses if different), ages, driver's license numbers and any and all aliases of the partners or joint ventures;
 - c. For corporations, the full names, residential addresses (and mailing addresses if different), ages, driver's license numbers and any and all aliases of the shareholders (owning 5 percent or more of the stock), directors and officers; and
 - d. For limited liability companies, the full names, residential addresses (and mailing addresses if different), ages, driver's license numbers and any and all aliases of the members (owning 5 percent or more of the membership interests), directors and officers or the equivalent parties.
2. Operator information if different from the ownership information, including the full name, residential address (and mailing address if different from the bed and breakfast establishment), age, driver's license number and any and all aliases of the person who is the operator.
 3. Information on the premises of the bed and breakfast establishment, including:
 - a. A site drawing showing required number of parking places;
 - b. Interior diagram indicating location of sleeping rooms, bathroom facilities, smoke and carbon monoxide detectors and building exits;
 - c. The number of sleeping rooms available;
 - d. Proof of insurance in compliance with section 3-11-7 of this chapter;
 - e. Operator certification in compliance with subsection 3-11-4E of this chapter if required;
 - f. In the event the licensee intends not to provide breakfast, a statement shall be provided to that effect, along with an agreement to notify both the city and Kane County health department if the operation is changed;
 - g. State of Illinois department of revenue tax number for reporting of room rental revenues for hotel tax purposes;
 - h. Proposed signage in compliance with the city zoning code; and
 - i. Such other information as the community development department requires to ensure compliance with the provisions of this chapter and other state and local law. (Ord. 14-27, 5-19-2014)

3-11-4: MINIMUM STANDARDS:

Bed and breakfast establishments that serve breakfast shall comply with the following minimum standards:

- A. Food shall be clean, wholesome, free from spillage, free from adulteration and misbranding and safe for human consumption. Containers of food shall be stored above the floor, on clean racks, shelves or other clean surfaces in such a manner as to be protected from splash or other contamination. Milk of only pasteurized grade A may be used. Use of home canned food is prohibited except for jams, jellies and honey.

- B. Food shall be protected from contamination while being stored, prepared and served, and during transportation. Perishable foods shall be stored at temperatures that will protect them against spoilage. Potentially hazardous food shall be maintained at safe temperatures of forty five degrees Fahrenheit (45°F), or below, or one hundred forty degrees Fahrenheit (140°F), or above, as appropriate, except during necessary periods of preparation and serving. Frozen food shall be kept at temperatures that will keep them frozen, except when being thawed for preparation. Potentially hazardous frozen food shall be thawed at refrigeration temperatures or below, quick thawed as part of the cooking process, or thawed by another method approved by the Kane County health department. An indicating thermometer shall be located in each refrigerator. Raw fruits and vegetables shall be washed thoroughly before use. Stuffings, poultry, and pork products shall be cooked to heat all parts of the food at least one hundred sixty five degrees Fahrenheit (165°F), before being served. Salads made of meat, poultry, potatoes, fish, shellfish, or eggs and other potentially hazardous prepared food, shall be prepared from chilled products with a minimum of manual contact. Portions of food once served to an individual may not be served again. Laundry facilities shall be separated from food preparation areas. Live animals shall be excluded from food preparation areas.

- C. No person knowingly infected with a communicable disease that may be transmitted by food handling may work in a bed and breakfast establishment.

- D. If the bed or breakfast operator suspects that any employee, family member or the operator himself or herself has a communicable disease, the operator shall notify the Kane County health department immediately.

- E. All operators shall be inspected, and licensed by Kane County health department. Licensing shall be achieved by successfully completing an examination offered by the Kane County health department as described in the current edition of the state of Illinois food service sanitation rules and regulations and other requirements of the Kane County health department for approval.

- F. Persons preparing or serving food or washing utensils shall wear clean outer garments and maintain a high degree of personal cleanliness. They shall wash their hands thoroughly before starting work and as often as necessary while working to remove soil and contaminants. After visiting a toilet room, persons shall wash their hands thoroughly in a lavatory but never in the kitchen sink.
- G. No one, while preparing or serving food, may use tobacco in any form.
- H. Utensils shall be kept clean and in good repair.
- I. Multiuse eating and drinking utensils shall be thoroughly cleaned after each use. Facilities needed for the operations of washing, rinsing and sanitizing shall be provided.
- J. Pots, pans and other utensils used in the preparation or serving of food or drink and all food storage utensils shall be thoroughly cleaned after each use. Cooking surfaces of equipment, if any, shall be cleaned at least once each day. Nonfood contact surfaces of equipment shall be cleaned at intervals that will keep them in a clean and sanitary condition.
- K. Residential sinks and home style mechanical dishwashing machines are acceptable facilities for washing multiuse eating and drinking utensils. Utensils shall be air dried.
- L. Immediately following either manual or mechanical washing of eating or drinking utensils, and pots, pans and other cooking utensils, these utensils shall be effectively sanitized by being submerged in a hypochlorite solution with a chlorine concentration continuously maintained in one hundred (100) parts per million, or another approved sanitizing solution which shall be used at the concentration tested and approved by the Kane County health department. Dishpans may be used to accomplish the final sanitizing rinse.
- M. The reuse of single service utensils is prohibited. (Ord. 14-27, 5-19-2014)

3-11-5: MANDATORY PROVISIONS:

Each person who is provided accommodations shall be provided individual soap and clean individual bath cloths and towels. Clean bed linen in good repair shall be provided for each guest who is provided accommodations and shall be changed between guests and as often as necessary. Clean linen shall be stored and handled in a sanitary manner. No person under the age of eighteen (18) shall be permitted to rent accommodations. (Ord. 14-27, 5-19-2014)

3-11-6: FIRE REGULATIONS:

Any new building or structure built for the purpose of a bed and breakfast or any existing building converted into a bed and breakfast shall comply with the current international building code and international fire code applicable to an R1 occupancy (boarding houses, transient). Also, bed and breakfast establishments shall meet the state fire marshal's requirements for lodging and rooming houses. In addition, the following standards shall be required:

- A. Manual extinguishing equipment shall be provided on each floor in accordance with NFPA 10 -- standards for the installation of portable fire extinguishers.
- B. All combustibles or flammable liquids shall be stored in approved metal containers. No combustible storage in or under stairways.
- C. All trash containers shall be metal.
- D. No cooking facilities shall be permitted in guestrooms, with the exception of one microwave oven not exceeding one thousand (1,000) watts.
- E. All hallways and stairways shall be adequately lighted.
- F. No portable heating devices shall be permitted in guestrooms.

G. A fire alarm system that is monitored by a listed fire alarm company shall be maintained and operational at all times.

H. Smoke detectors and carbon monoxide detectors shall be provided in each guestroom.
(Ord. 14-27, 5-19-2014)

3-11-7: INSURANCE:

The bed and breakfast establishment shall provide proof of adequate liability insurance as required by the city, which shall include, at a minimum, the following coverage:

A. Liability Insurance Required: Every applicant for a license shall present to the city a certificate of insurance in a company satisfactory to the city, evidencing that the applicant is insured against liability for injury to persons or property with limits of two hundred fifty thousand dollars (\$250,000.00) for each person injured and one million dollars (\$1,000,000.00) for each accident and two hundred fifty thousand dollar (\$250,000.00) limits for property damage, which insurance shall protect all persons and property other than that of the applicant, but including the city. (Ord. 14-27, 5-19-2014)

3-11-8: COMPLIANCE WITH STATE AND LOCAL LAW:

Every bed and breakfast establishment in the city must comply with the requirements of the Illinois department of revenue, and the city of Batavia, including the payment of any taxes applicable to bed and breakfasts. (Ord. 14-27, 5-19-2014)

3-11-9: INSPECTIONS:

Every bed and breakfast establishment shall be subjected to routine inspections as set forth herein:

A. Consent To Inspection: The act of applying for and accepting a bed and breakfast license pursuant to this chapter shall be considered consent to the powers of entry and audit provided in this chapter.

B. Authorized Agents: The local fire department, Kane County health department, local code enforcement officer, law enforcement or their agents are hereby authorized to enter at any time upon any licensed bed and breakfast premises to determine whether or not the bed and breakfast is in compliance with all governing ordinances of the city and county and state laws applicable to bed and breakfast establishments. Unless said inspection is to investigate a life safety issue or a matter of imminent danger, the applicable agency should provide twenty four (24) hour notice to the operator of the requested inspection. (Ord. 14-27, 5-19-2014)

Use Classification	R0	RI-L	RI-M	RI-H	Additional Regulations
Amateur Radio Facilities	P, LI	P, LI	P, LI	P, LI	
Animal Raising, Non-Commercial	P	--	--	--	Minimum 2 acre lot size
Bed and Breakfast Homes	C	C	C	C	
Carnival	T	T	T	T	See Title 3-4
Child Day Care, Home Occupation	P	P	P	P	See Section 4.503
Clubs and Lodges	C, L3	C, L3	C, L3	C, L3	
Congregate Living Facility	C	--	--	--	
Crop Raising, Non-Commercial	P	P	P	P	
Day Care Home	P, L2	P, L2	--	--	See Section 4.503
Garage Sales	T	T	T	T	See Section 4.509
Group Home	P	P	P	P	See Section 4.504
Guest Quarters	P, LI	P, LI	P, LI	P, LI	
Haunted House	T	T	T	T	Non-Commercial
Home Occupation	P	P	P	P	See Section 4.502
Homeowner Association Facilities	P	P	P	P	
Model Home	T	T	T	T	See Section 4.511
Over-The-Air Reception Device	P	P	P	P	See Chapter 4.8
Religious Assembly	C, L3	C, L3	C, L3	C, L3	
Residential, Permanent					
<i>Single Family, Detached</i>	P	P	P	P	
<i>Secondary Dwelling Unit</i>	--	--	A, LI	A, LI	
<i>Two-Family Residential</i>	--	C	--	--	
Satellite Dish Antenna, Large	P, LI	P, LI	P, LI	P, LI	
Schools, Public or Private	C, L3	C, L3	C, L3	C, L3	
Senior Housing	P	P	P	P	
Shelter Care Facilities	C	C	--	--	
Stable, Non-Commercial	P	--	--	--	2 acre minimum lot size
Utilities					
<i>Facilities</i>	A	A	A	A	
<i>Well Site</i>	A	A	A	A	
LI: Only as a use incidental to the principal use of the property L2: Facilities shall be licensed as required by the State of Illinois L3: Conditional Use; Clubs and Lodges, Community Service Facilities, Public and Private Schools and Religious Assembly Uses are not permitted in single-family residential structures					

2.104 Lot Development Regulations

Table 2.104: Lot Development Regulations – Single Family Residential Districts sets forth the development regulations for single family uses in single family residential districts, and are in addition to the development regulations set forth in Section 2.106: Additional Use and Development Regulations and Chapter 4.1: Site Regulations. Letter designations in the *Additional Regulations* column refer to regulations that follow Table 2.104: Lot Development Regulations – Single Family Residential Districts.

Chapter 24

HOTEL TAX

3-24-1: DEFINITION:

The words "hotel" or "motel", within the meaning of this chapter, include every building or structure, kept, used, maintained, advertised and held out to the public to be a place where lodging, or lodging and food, or apartments, or suites, or other accommodations are offered for a consideration to guests on a daily basis. The definition of hotel or motel includes, but is not limited to, bed and breakfasts, inns, tourist homes, and rooming houses. (Ord. 14-39, 7-7-2014)

3-24-2: TAX IMPOSED:

- A. There is levied and imposed a tax of three percent (3%) of the gross rental receipts from the renting, leasing or letting a hotel or motel room within the city for each twenty four (24) hour period or any portion of such twenty four (24) hours for which a daily room charge is made; provided, however, that a tax shall not be levied or imposed upon any person who shall be a permanent resident. A "permanent resident" is defined to be a person who rents a hotel or motel room in the same establishment for more than thirty (30) consecutive days or to a person who works and lives in the same hotel or motel. The "gross rental receipts" shall be defined as set forth in section 8-3-14 of the Illinois municipal code¹.
- B. Persons subject to the imposed tax may reimburse themselves for their tax liability for such tax by separately stating such tax as an additional charge, which charge may be stated in combination and in single amount with the state tax imposed under the hotel operations' occupation tax act as provided in 35 Illinois Compiled Statutes 145/3 or any subsequent amendment thereof.
- C. The tax levied and imposed in this chapter shall be paid in addition to any and all other taxes and charges. It shall be the duty of the operator to pay the amount of the tax to the city finance director under procedures prescribed by the city finance director or as otherwise provided in this chapter. (Ord. 14-39, 7-7-2014)

3-24-3: RECORDS KEPT:

Every operator shall keep records of every occupancy and of all rent paid, charged or due thereon and of tax payable thereon in such form as may be required by regulations prescribed by the city finance director or as otherwise provided in this chapter. Such records shall be available for inspection and examination for any proper purpose at any reasonable time upon demand by the city finance director or a duly authorized agent or employee of the city and shall be preserved for a period of three (3) years unless the city finance director shall prescribe a shorter period of time. It is unlawful for any person to prevent, hinder, or interfere with the city finance director or his or her duly authorized representative in the discharge of the duties of such office. (Ord. 14-39, 7-7-2014)

3-24-4: RETURN FILED:

- A. Every operator shall file monthly with the city finance director a return of occupancy and of rents and of the taxes payable thereon on forms prescribed by the city finance director and consistent with returns required under the hotel operators' occupation tax act found in 35 Illinois Compiled Statutes 145/6 or any subsequent amendment. The monthly payments and monthly returns shall be filed on or before the fifteenth day of the month immediately succeeding the month during which such taxes were collected. A separate return shall be filed for each place of business within the city regardless of ownership.
- B. The reporting periods and tax payments shall be in accordance with the provisions of this chapter. At the time of filing such tax returns, the operator shall pay the full amount of all tax due under this chapter.
- C. If for any reason any tax is not paid when due, a penalty at the rate of one percent (1%) per thirty (30) day period or portion of such thirty (30) days from the date of delinquency shall be added and collected. In addition, a penalty of ten percent (10%) of the tax and interest due shall be assessed and collected against any hotel or motel owner, operator or licensee who shall fail to collect and remit the tax imposed by this chapter. (Ord. 14-39, 7-7-2014)

3-24-5: FAILURE TO PAY; ENFORCEMENT:

Whenever any person shall fail to pay any taxes or penalty provided for in this chapter, the city attorney shall, upon request of the city finance director bring or cause to be brought an

action to enforce the payment of such tax on behalf of the city in any court of competent jurisdiction, together with the costs of such collection. (Ord. 14-39, 7-7-2014)

3-24-6: PAYMENT TO CITY:

All proceeds resulting from the imposition of the tax under this chapter, including interest and penalties, shall be paid into the treasury of the city and shall be credited to and deposited in the corporate fund of the city. The city finance director is authorized and directed to distribute ninety percent (90%) of the taxes collected by this chapter to the Aurora area convention and visitors bureau, which bureau has been set up by a certain intergovernmental cooperation agreement executed between the city of Batavia and the cities of Aurora, Yorkville, Plano and Sandwich, and the villages of Hinckley, Montgomery, North Aurora, Sugar Grove and Big Rock. The city finance director is authorized to retain ten percent (10%) of such taxes collected to be expended for the uses and purposes as required by 65 Illinois Compiled Statutes 5/8-3-14.

If the intergovernmental cooperation agreement lapses or the city is no longer obligated to pay any portion of the collected taxes to the Aurora area convention and visitors bureau or any other agency, the city finance director is authorized to retain all such taxes collected, to be expended for the uses and purposes as required by 65 Illinois Compiled Statutes 5/8-3-14. (Ord. 14-39, 7-7-2014)

3-24-7: CERTIFICATE OF REGISTRATION REQUIRED:

It is unlawful and a violation of this chapter for any person to engage in the business of renting, leasing or letting rooms in a hotel within the city without a certificate of registration from the city. Such registration shall be issued by the city in forms consistent with those registrations issued by the Illinois department of revenue under the provisions of 35 Illinois Compiled Statutes 145/5 or any subsequent amendment. (Ord. 14-39, 7-7-2014)

3-24-8: VIOLATION; PENALTY:

Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with or resisting or opposing the enforcement of any provision of this chapter, in addition to any and all other penalties provided in this chapter, upon conviction of such violation, shall be punished by a fine of not less than twenty five dollars (\$25.00) nor more than seven hundred fifty dollars (\$750.00). (Ord. 14-39, 7-7-2014)