To view the live meeting use the GoToWebinar link below to register for the event at:
You will need to provide your name and email address.

Residents can listen by phone to the Committee of the Whole Meeting by Dialing (213) 929-4212 and use the audio PIN 353-376-267.

Dial in calls are unable to ask questions. Questions can be asked prior to meeting by emailing publiccomment@cityofbatavia.net

1. Roll Call
2. Reminder: Please Speak Directly Into Microphone For BATV Recording
3. Approve Minutes For: November 17, 2020, December 1, 2020 And December 15, 2020
   Documents:
   COW 20-11-17M.PDF
   COW 20-12-01M.PDF
   COW 20-12-15M.PDF

4. Items Removed/Added/Changed
5. Matters From The Public (For Items NOT On Agenda)

6. Ordinance 21-08: Authorizing Execution Of A TIF Redevelopment Agreement With Comedy Vault, LLC (D/B/A The Comedy Vault) Relating To The Building Improvements At 18 East Wilson, River Street. (LN 1/07/21) CD
   Documents:
   ORD 21-08 RDA COMEDY VAULT.PDF

7. Discussion: Increase The Allowed Hours Of Sale Of Liquor To Begin At 8:00 AM (GS)
8. Discussion: Landmark Designation For The Conde House At 210 N Washington Street
9. Project Status
10. Other
11. Executive Session
   a. Setting the Price of Land for Sale (SCB)
   b. Purchase or Sale of Real Estate (GH)

12. Adjournment
Vice-Chair O’Brien called the meeting to order at 7:00pm.

1. Roll Call

Members Present: Ald. Miller, Russotto, Beck, Knopp, Chanzit, Baerren, O’Brien, Callahan, Meitzler, Malay, Uher, Cerone, McFadden

Members Absent: Chair Wolff

Also Present: Mayor Schielke; Laura Newman; Chief Eul, City of Batavia Police Department; Gary Holm, Director of Public Works; Peggy Colby, Director of Finance; Wendy Bednarck, Director of Human Resources; Scott Buening, Director of Community Development; Rahat Bari, City Engineer; Howard Chason, Director of Information Technology; and Jennifer Austin-Smith, Recording Secretary

2. Reminder: Please speak into the microphone for BATV recording

3. Approve Minutes for October 26, 2020

Motion: To approve the minutes for October 26, 2020
Maker: O’Brien
Second: Russotto
Roll Call Vote: Aye: O’Brien, Callahan, Meitzler, Malay, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp, Chanzit, Baerren
Nay:
12-0 Vote, 2 Absent. Motion carried.

4. Items to be Removed/Added/Changed
There were no items to be removed, added or changed.

5. Matters From the Public (For Items NOT on the Agenda)
There were no matters from the public at this time.

6. Public Hearing 7:00PM: Tax Levy SSA #30
The Public Hearing was opened at 7:03pm by Vice-Chair O’Brien. There were no registered comments and no meeting attendees utilized the “raised hand” option on GoToWebinar.
Motion: To close the Public Hearing
Maker: Chanzit
Second: O’Brien
Roll Call Vote: Aye: Chanzit, Baerren, O’Brien, Callahan, Meitzler, Malay, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp
Nay:  
13-0 Vote, 1 Absent. Motion carried.

The Public Hearing was closed at 7:04pm.

7. Resolution 20-131-R: Adoption of the 2021 Budget (PC – No Memo) GS
Colby noted that the resolution includes the $50,000 for Prairie Street sidewalk connections.

Motion: To recommend approval of the adoption of the 2021 Budget
Maker: Malay
Second: Baerren
Roll Call Vote: Aye: Miller, O’Brien, Malay, McFadden, Beck, Chanzit, Baerren
Nay: Russotto, Knopp, Callahan, Meitzler, Uher, Cerone
7-6 Vote, 1 Absent. Motion carried.

Chanzit overviewed the memo.

Motion: To recommend approval of Ordinance 20-67: Tax Levy
Maker: Chanzit
Second: O’Brien
Roll Call Vote: Aye: Chanzit, Baerren, O’Brien, Callahan, Malay, Meitzler, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp
Nay:  
13-0 Vote, 1 Absent. Motion carried.


Motion: To recommend approval of Ordinance 20-68: Tax Levy SSA #30
Maker: Chanzit
Second: Malay
Roll Call Vote: Aye: Chanzit, Baerren, O’Brien, Callahan, Malay, Meitzler, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp
Nay:  
13-0 Vote, 1 Absent. Motion carried.


Motion: To recommend approval of Ordinance 20-69: Tax Levy SSA #62
Maker: Chanzit
Second: Malay
Roll Call Vote: Aye: Chanzit, Baerren, O’Brien, Callahan, Malay, Meitzler, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp
Nay: 13-0 Vote, 1 Absent. Motion carried.

Chanzit reported that if we are to have a dispensary in town we do have to set the tax rate. The surrounding communities (Geneva, St. Charles and North Aurora) have all set their tax rate at 3%. There is the opportunity to lower ours if we would like to possibly be more competitive to attract a dispensary but then we are losing out on money we could be receiving on this. Staff is recommending that we go along with our neighbors at three percent.

Vice-Chair O’Brien stated that 3% is as high as we could go and he would agree with our staff on this. If our state lets the percentage increase he would increase the tax in order to tax as much as we can. This is a revenue source. He was opposed to us selling cannabis in our city for recreational purposes. However, since we have it we should maximize whatever revenues we can. Russotto agreed.

McFadden stated that we waited longer than everyone else to see what they did to give us an advantage. We could come in at 2.5% or 2.75% and there is nothing to stop us from raising the tax later should we want to. He thinks the lower tax rate would give the city an advantage with attracting someone, which is revenue that we don’t have right now. Malay stated that if we start at 2.5% we would not be leaving any money at the table because we are not collecting any money now. This could give us the opportunity to attract cannabis retailers. Knopp agreed and added we could make the difference up in higher sales. Miller agreed. Cerone stated that he does not think people would travel further to save a half percent so he would not leave anything on the table. Baerren stated that keeping the tax at 3% could work towards our advantage. We have opportunities along Randall Road that provides a lot of traffic and parking.

Motion: To amend the Ordinance to 2.5%
Maker: Malay
Second: McFadden
Roll Call Vote: Aye: Malay, McFadden, Miller, Knopp
Nay: Russotto, Beck, Chanzit, Baerren, O’Brien, Callahan, Meitzler, Uher, Cerone
4-9 Vote, 1 Absent. Motion failed.

Motion: To recommend approval of Ordinance 20-59: Municipal Cannabis Retailers Occupation Tax
Maker: Chanzit
Second: Russotto
Roll Call Vote: Aye: Chanzit, Baerren, O’Brien, Callahan, Malay, Meitzler, Uher, Cerone, Miller, Russotto, Beck, Knopp
Nay: McFadden
12-1 Vote, 1 Absent. Motion carried.
12. Discussion: Update of the Strategic Action Plan (LN) (GS)
Newman presented the Strategic Plan PowerPoint utilizing the shared screen option on GotoWebinar. Newman discussed the Strategic Plan objectives: Economic Vitality, Transportation, Infrastructure, the River and Diversity. Newman took notes on the suggestions the Committee provided onto the PowerPoint. Newman shared that she plans to find an engaging format to put this information into that the community could relate to. To that, staff will add the specific actions we intend to take in 2021, 2022 and 2023 and make sure that we accomplish those goals. Newman plans on getting that document together by the end of this year so that we could roll it out to the community first thing next year.

13. Project Status
Newman reported on the following:

- The Economic Development Grant amount left for the 2021 budget we had intended to utilize that funding for the catenary lights on North River Street and we also need to purchase outdoor public dining tables. This year we were fortunate to be able to lease the tables from Funway.
- There will be no meeting next week Tuesday for the Committee of the Whole.

14. Other
Baerren asked if there is money budgeted for the lighting on River Street in the TIF budget. Colby stated that there is ten thousand in the TIF 1 budget but it is not likely to cover the cost. Newman stated that $50,000 is a good estimate with the engineering and the construction of the lighting project.

15. Adjournment
There being no other business to discuss, Vice-Chair O’Brien asked for a motion to adjourn the meeting at 8:05pm; Made by Baerren; Seconded by Uher. Motion carried.
Chair Wolff called the meeting to order at 7:00pm.

1. Roll Call

Members Present: Chair Wolff; Ald. Miller, Russotto, Beck, Knopp, Chanzit, Baerren, O’Brien, Callahan, Meitzler, Uher, Cerone, McFadden

Members Absent: Alderman Malay

Also Present: Mayor Schielke; Laura Newman; Chief Eul, City of Batavia Police Department; Gary Holm, Director of Public Works; Wendy Bednarek, Director of Human Resources; Scott Buening, Director of Community Development; Drew Rackow, Planner; Anthony Isom, Assistant to the City Administrator; Howard Chason, Director of Information Technology; and Jennifer Austin-Smith, Recording Secretary

2. Reminder: Please speak into the microphone for BATV recording

3. Items to be Removed/Added/Changed

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

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

There were no matters from the public at this time.

5. 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. Ordinance 20-71: Declaring Certain Property to be Surplus and Authorizing Sale Thereof (SH 11/17/20)

Motion: To approve Consent Agenda as presented
Maker: Chanzit
Second: Knopp
Committee of the Whole
December 1, 2020
Page 2

Roll Call Vote: Aye: Chanzit, Baerren, Wolff, O’Brien, Callahan, Meitzler, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp
Nay: 13-0 Vote, 1 Absent. Motion carried.

6. Public Hearing Amendment to an Annexation Agreement Recorded as Document No. 2009K054749 & Revocation of a Conditional Use Approved by Ordinance 08-2 (DMR 11/13/20)

Chair Wolff opened the Public Hearing at 7:04pm. There were no emailed comments nor meeting attendee comments. Chair Wolff asked for a motion to close the Public Hearing.

Motion: To close the Public Hearing
Maker: Callahan
Second: Uher
Roll Call Vote: Aye: Callahan, Meitzler, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp, Chanzit, Baerren, Wolff, O’Brien
Nay: 13-0 Vote, 1 Absent. Motion carried.

The Public Hearing was closed at 7:04pm.


Rackow overviewed the memo.

Motion: To approve Finding 1 and Finding 2 as presented
Maker: Callahan
Second: Knopp
Roll Call Vote: Aye: Callahan, Meitzler, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp, Chanzit, Baerren, Wolff, O’Brien
Nay: 13-0 Vote, 1 Absent. Motion carried.

Maker: Callahan
Second: Knopp
Roll Call Vote: Aye: Callahan, Meitzler, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp, Chanzit, Baerren, Wolff, O’Brien
Nay:
13-0 Vote, 1 Absent. Motion carried.

8. Ordinance 20-65: Revocation of a Conditional Use for a Planned Development Granted by Ordinance 08-23 (DMR 11/20/20) CD

Motion: To recommend approval of Ordinance 20-65: Revocation of a Conditional Use for a Planned Development Granted by Ordinance 08-23
Maker: Callahan
Second: Knopp
Roll Call Vote: Aye: Callahan, Meitzler, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp, Chanzit, Baerren, Wolff, O’Brien
Nay: 13-0 Vote, 1 Absent. Motion carried.

9. Resolution 20-128-R: Accepting Utility and Drainage Easement Agreements (DMR 11/20/20) CD

Motion: To recommend approval of Resolution 20-128-R: Accepting Utility and Drainage Easement Agreements
Maker: Callahan
Second: Knopp
Roll Call Vote: Aye: Callahan, Meitzler, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp, Chanzit, Baerren, Wolff, O’Brien
Nay: 13-0 Vote, 1 Absent. Motion carried.

10. Resolution 20-130-R: Approving a Variation to the Subdivision Regulations (City Code Title 11) Regarding the Front Building Line at 1111 Newton Court (Corner of Newton Avenue) Michael Blankenship, Property Owner and Applicant (JLS 11/20/20) CD

Callahan overviewed the memo.

Motion: To recommend approval of Resolution 20-130-R: Approving a Variation to the Subdivision Regulations (City Code Title 11) Regarding the Front Building Line at 1111 Newton Court (Corner of Newton Avenue) Michael Blankenship, Property Owner and Applicant
Maker: Callahan
Second: Knopp
Roll Call Vote: Aye: Callahan, Meitzler, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp, Chanzit, Baerren, Wolff, O’Brien
Nay: 13-0 Vote, 1 Absent. Motion carried.

CONSENT AGENDA

Buening reported that the next six ordinances are all related. The first three involve dissolving or removing property from the TIF Districts and the second three are ordinances that would be required to create the new TIF District. All of these have a ‘21’ ordinance designation because it is intended that these would be passed next year after the first of the year so we could take advantage of an additional tax increment tax year. The ordinances are scheduled to be approved at the first meeting in January.

Newman opened the floor for public comment. Sylvia Keppel addressed the Committee. She stated that she does not mind the City removing properties from the TIF Districts. She thinks that it is long past due that the TIFs be dissolved. But if you are just removing properties to put in a new TIF 6 she does object. TIF 5 still has a large number of years on it. We can still get a new project that will pay for itself. But if you insist on TIF 5 you could use incentives like you instituted in the West Town TIF. If you start pulling properties from TIFs to make new TIFs you create perpetual TIFs, an abuse of TIF law, an abuse for which a bill was introduced in the general assembly this year until derailed by COVID. The School District voted against extension of TIF 5. You are doing everything you can to undermine another elected bodies authority and that is just plain wrong. They had the right to object and it is underhanded of you, dishonest in fact, to come up with a scheme like this to get around the School District. Please leave the TIFs where they are. Keppel asked that the Committee listen to constituents that are not in favor of this project. Keppel shared that she put out a poll today and last she saw there were 19 votes all against this TIF and the Shodeen project. She will leave the poll up until the City Council meeting where the final decision on this is to be made. This is not popular and against what the people want. In Geneva last night, they had a Shodeen project very similar to ours, way too big and did not fit at all with the downtown. The aldermen there listened to their constituents and they all voted against this project stating that it is not right for their downtown. She is asking the Committee to please listen to your constituents. Go out and talk to people and ask them what they think. Please leave the TIFs where they are, find a new project and let it go. She thanked the Committee for their consideration.

Mary Niekamp addressed the Committee. She supported Sylvia Keppel’s comments. Niekamp stated the creation of a new TIF to take advantage of taxation law becomes extremely exploited. We all understand the basic premise of this and we are going above and beyond to accommodate a building project that is part of a haphazard development that Batavia has represented in her twenty-six years here as a resident. She does not think Batavia has been very strategic in how they develop their downtown. She has not seen an appreciable increase in the way our downtown is used as Geneva has. Geneva has been very strategic and by turning down certain things that appear good on the outside but don’t generally create the kind of downtown we are looking to create, they have created a much more friendly tourist place that has more economic boom. None of this is going to increase her desire to go downtown, in fact it would decrease her desire because we already have an over the bridge issue, which has never been successfully tended to in her tenure her in Batavia. We don’t need to redistrict the TIF, we just need to leave this project. It is not popular with anyone that she speaks to in her community and she is on Batavia Avenue right on Maple Lane. One of the things we like about Batavia is that it is a sweet little town and it is not Geneva or St. Charles, not that we do not want economic growth. We would like
appropriate economic growth to develop the kind of community we want to be. We have a large economic corridor on Randall Road with open spots that could be developed and during this COVID year there have been a lot of hardships for people in our community. We have a demographically diverse community in Batavia and she knows some families that are just struggling to stay alive. We just need to be gracious. She was disappointed that the School Board voted in favor of increasing taxes once again in the midst of all that we have suffered in the world this year. She would appreciate the Council listening to the community at this time and say let’s halt this, we do not need to push this through, this is not the time.

Knopp shared that he too watched the Geneva Committee of the Whole meeting. They had the exact same project, exact same circumstances before them as we have before us and the exact same developer. What struck him was the common theme he heard from their elected officials was they were going to listen to the constituents and the people who elected them. They were going to listen to the taxpayers and do what the taxpayers said rather than the ten people on the board doing what they wanted. They put the community’s voices above their own and that struck a chord with him. Knopp stated that he is not in support of breaking up TIFs, not in support of creating a new TIF and not in support of this project. Uher agreed. He stated that this is a cookie cutter project. For example, the exact same thing was built in Oswego. For those who will vote yes, when you look to this in the future and look at the building that has been built, will you be able to look at the building and say I am proud of the building we put into Batavia. Other projects will be out there and we need to do what is right for our town and not just go with the first thing that comes along. This is not the right building.

Chair Wolff stated that from the beginning, the City’s goal was to create density downtown, draw people in to downtown by building a building with such mass that it would create the incentive for other developers to come in and fill in around it with other types of buildings; more multi-use than just a big apartment building. He believes our downtown can support this. We have spent a lot of money on infrastructure, layout and planning for our downtown. If this does not go through, are you going to be happy with an empty lot in our downtown? The longer we wait to get done with this, the lower then chance that anything big or good is going to happen in our downtown. Chair Wolff stated that he wants this to go through and to get this done to bring more people into the downtown. Development will follow it. O’Brien agreed. He stated that when this project was introduced we thought that this would be a game changer for the City of Batavia. This is going to be an economic engine for our downtown. We need to take advantage of that. We worked hard on this and invested sums of money, as did the developer. The developer has worked with us every step of the way in partnership with the City. This has gone on far too long and Shodeen has stayed with us. Not that we owe anything to Shodeen but we owe it to the people of Batavia to start moving our city forward. This will not raise the property taxes, the project will pay for itself and bring people into our downtown. Businesses in our downtown will prosper.

McFadden shared before moving to Batavia he lived in Elmhurst. When he lived there a big development like this was going up. There was a small group of people who did not like the project. In the years since that, the changes the development made to the downtown with the number of new businesses and new developments have completely revitalized the downtown. McFadden continued that we need more sources of revenue and there are a couple of options:
raise taxes or drive growth. He is focused on driving growth versus raising taxes. If we could drive new income and sales tax because we are spurring a bunch of new development that is what we need to be doing. Russotto stated that the citizens of Batavia voted in favor of Home Rule and that was when we were in a majority in favor of the project. There were more people in favor of Home Rule and for us to keep the trend going towards this project alive and that is why he is in support of this project as well. Mayor Schielke commented that schools are looking for money and he looks at this project and the TIF as an effort by the City Council to sustain and support the Batavia School District in the years ahead. Beck commented that Shodeen properties in Geneva blend in with the surroundings and appears seamless. This one doesn’t and if she were on Council at that time she could have opposed the design. She worries about that but she has voted for this because she does not think it is going to ruin our downtown in anyway. If it is a catalyst for new developments that is awesome and she would like to have these types of conversations as these new developments come before us. Size matters and design matters and we have to approach this differently in future developments on what we are looking for and how we get it.

Meitzler stated that shuffling around TIFs to make this project work seems wrong. Also, the schools looked at this new TIF and the new project and they voted it down. Now we are trying to revitalize it in one other way. For this to be the cash cow to support our schools and the experts at the schools turned it down seems like we are circumventing their expertise. He is strongly against this project continuing. He feels that it is a waste of staff time to continue to find new creative ways to revitalize and bring this project back up. Baerren stated that she supports this project for Batavia because we need to help with our development downtown. This is undeveloped property sitting in TIFs and we have not been able to attract a developer. She supports this project. Miller stated that he was initially for this project. He does think that this could be an economic driver but we have strung this project along. The character of this just does not fit. He has spoken with several residents in his ward who want what they want. We should have demanded what we wanted instead of just accepting what was given to us. Miller is in support of not moving forward with this project and not string this project along anymore. He keeps wondering how much longer will all of this continue to go on.

Cerone shared that he would support this project because if the economic benefits. There is a lot we could learn from this process moving forward. There is a lot he would demand we do differently. He is still excited about what this could do for the downtown. He feels that this is a necessity for the downtown but we should improve our process moving forward. Chanzit shared that he has been in support of this project. It still provides economic development, units, and high density. Chanzit shared that when he was a reporter, the School District was not in favor of the Premium Outlet Mall in Aurora and now they cash a TIF check for several million dollars. This will provide property taxes for the city. For all those reasons he will support this project. Callahan stated that everyone has agreed that the parcel should be developed. Everyone on this body and the majority of the public has agreed with the basic premise that downtown needs density. There has been no outcry about living downtown and the use. There has been a lot of common ground on this. We have all agreed that the development of that parcel is key to what we have in the downtown. The only divergence has been on size, mass and the actual blending into the community. Some of that is clearly subjective. Where there has been disconnect with the Committee and the general public overall has been how have we been able to avoid this
perception that this does not fit into our community. The people who live here should have the first say on what they want their community to look like. He has tried to get people to support this project and no one has been excited to see that building go here. The majority of people are resigned to accepting something that they don’t want. They feel like we are just settling because we can.

Mary Niekamp addressed the Committee. She agreed with Alderman Callahan, it is not that we do not want growth, we just do not want this project. We need to be who we are and not who we are not. We do not have to take this chance now. She has lived long enough to know that chances come and go. There will always be a better opportunity down the corner if we hold onto our values. We have to respect the current residents who live here with an eye for the future. We need to have an eye for being a steward of a historic town. She shared her home is an 1891 home, she is a steward of a home that will be there long after she dies and that is how she looks at this property. She tries to do the best by her property and by her community. She suggested that the aldermen look at the people who are actually living in Batavia and ask what do they want their lives to be like. That is who you represent.

Motion: To recommend approval of Ordinance 21-01: An Ordinance Dissolving Tax Increment Financing District No. 5 (Washington-Wilson Redevelopment District)
Maker: O’Brien
Second: Wolff
Roll Call Vote: Aye: O’Brien, Cerone, McFadden, Russotto, Beck, Chanzit, Baerren, Wolff
Nay: Miller, Knopp, Callahan, Meitzler, Uher
8-5 Vote, 1 Absent. Motion carried.

12. Ordinance 21-02: An Ordinance Amending Ordinance 89-90 Eliminating Property from the Riverfront Redevelopment Area Tax Increment Financing District (TIF #1) (SCB 11/24/20) CD

Motion: To recommend approval of Ordinance 21-02: An Ordinance Amending Ordinance 89-90 Eliminating Property from the Riverfront Redevelopment Area Tax Increment Financing District (TIF #1)
Maker: O’Brien
Second: Baerren
Roll Call Vote: Aye: O’Brien, Cerone, McFadden, Russotto, Beck, Chanzit, Baerren, Wolff
Nay: Miller, Knopp, Callahan, Meitzler, Uher
8-5 Vote, 1 Absent. Motion carried.

13. Ordinance 21-03: An Ordinance Amending Ordinance 04-09 Eliminating Property from the Downtown Redevelopment Area Tax Increment Financing District (TIF #3) (SCB 11/24/20) CD

Motion: To recommend approval of Ordinance 21-04: An Ordinance Approving the Near East Downtown Tax Increment Financing District Redevelopment Plan and Program
Maker: McFadden
Second: O’Brien
Roll Call Vote: Aye: McFadden, Russotto, Beck, Chanzit, Baerren, Wolff, O’Brien, Cerone
Nay: Miller, Knopp, Callahan, Meitzler, Uher
8-5 Vote, 1 Absent. Motion carried.

15. Ordinance 21-05: An Ordinance Designating the Near East Downtown District Redevelopment Project Area of The City of Batavia as a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act, as amended (SCB 11/24/20) CD

Motion: To recommend approval of Ordinance 21-05: An Ordinance Designating the Near East Downtown District Redevelopment Project Area of The City of Batavia as a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act, as amended
Maker: O’Brien
Second: McFadden
Roll Call Vote: Aye: O’Brien, Cerone, McFadden, Russotto, Beck, Chanzit, Baerren, Wolff
Nay: Miller, Knopp, Callahan, Meitzler, Uher
8-5 Vote, 1 Absent. Motion carried.


Motion: To recommend approval of Ordinance 21-06: An Ordinance Adopting Tax Increment Financing for the Near East Downtown District Redevelopment Project Area
Maker: O’Brien
Second: Russotto
Roll Call Vote: Aye: O’Brien, Cerone, McFadden, Russotto, Beck, Chanzit, Baerren, Wolff
Nay: Miller, Knopp, Callahan, Meitzler, Uher
8-5 Vote, 1 Absent. Motion carried.

17. Ordinance 20-66: Amending the Text of the Zoning Code (DMR 11/18/20) CD
Rackow overviewed the memo and the amendments to the text of the Zoning Code.

Motion: To recommend approval of Ordinance 20-66: Amending the Text of the Zoning Code
Maker: Uher
Second: Callahan
Roll Call Vote: Aye: Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp, Chanzit, Baerren, Wolff, O’Brien, Callahan, Meitzler
Nay:
13-0 Vote, 1 Absent. Motion carried.

CONSENT AGENDA

Holm overviewed the memo.

Motion: To recommend approval of Resolution 20-132-R: Authorizing Task Order #5 with Baxter & Woodman For Construction Engineering Services for 2021 Ward 1 – Phase 4 (TG 11/23/20) CS
Maker: Wolff
Second: Baerren
Roll Call Vote: Aye: Wolff, O’Brien, Callahan, Meitzler, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp, Chanzit, Baerren
Nay:
13-0 Vote, 1 Absent. Motion carried.

*Aldermen O’Brien and Beck exited the meeting at 8:48pm

19. Approval: Class D-1 (Restaurant – All Liquor) Liquor License Application for Windmill Grille and Pizzeria Located at – 90 N. Island Ave, Batavia (DME 11/13/20) GS
Chanzit summarized the memo for the Committee and attendees. Newman noted that the applicant is not in attendance.

Motion: To approve Class D-1 (Restaurant – All Liquor) Liquor License Application for Windmill Grille and Pizzeria Located at – 90 N. Island Ave, Batavia
Maker: Chanzit
Second: Uher
Roll Call Vote:  
**Aye:** Chanzit, Baerren, Wolff, Callahan, Meitzler, Uher, Cerone, McFadden, Miller, Russotto, Knopp  
**Nay:**  
11-0 Vote, 3 Absent. Motion carried.

_Alderwoman Beck returned to the meeting at 8:51pm._

**20. Ordinance 20-72: An Ordinance Amending the 2021 Wage and Salary Ordinance for Non-Collective Bargained Employees (WCB 12/01/20) GS**

Chanzit reported that the 2021 wage and salary ordinance for non-collective bargained employees staff is recommending a 2.5% increase. There are two title changes for positions and pay grade reclassifications based on previous discussions had with Council. The Communications Coordinator position will be changed to Communications Manager with no pay grade change. The city plans on combining Community Development with Economic Development. That said, it would be appropriate to retitle the position as a Community Development and Economic Development Director. The Community Development and Economic Development Director, Human Resources Director, and Information Systems Director are being moved up to pay grade 24. Both the Chief of Police and Fire are being moved to pay grade 27.

Uher stated that he would hate to say no to raises but these are extraordinary times. It does not feel right while people have lost their jobs or taken cuts so his vote will be no. Callahan stated that these are extraordinary times and we are going to pass cost of living increases that our residents will have to pay for while a lot of them are very concerned about their pay and their jobs. Baerren stated that she could not just support a 2.5% raise at this point. Newman suggested looking into projects to cut funding from at this time. She expressed how hard staff has worked during these unprecedented times. McFadden stated that given that this is an unusual year, if we are unwilling to give the raise he agrees with Laura that we should look at projects we could cut. The most valuable resource we have in this city are the employees. The cost of replacing an employee who leaves is exponentially higher than the cost of a raise to be given. We have to look at our most valuable resource. This is an unusual year but that is a short-term situation and not a forever situation. If we have to cut, we should look at projects.

Chair Wolff asked for the actual dollars that the 2.5% represent in the budget. Colby answered that the 2.5% comes to about $135,000. Chair Wolff stated that in the grand scheme of the General Fund and the budget and all our employees, we could take away two vehicles we are not going to buy this year if that is what it takes to pass this to approve the 2.5%. Newman agreed. Chair Wolff stated that is a compromise we could do in our budget.

Newman opened the floor for public comment. Sylvia Keppel thanked the aldermen who see what is going on in this country. People have lost their jobs, their businesses. Please do not award the raises this year. The unions are another story and she understands that there are contracts in place. Perhaps in the future those contracts could have crisis contingencies but we are not talking about the union employees right now. When you demand I pay more you cut into my purchasing power even more. Just stop. Share the sacrifices. It is okay to say no sometimes, we do not have to keep up with the Joneses. We are in crisis mode. Employees are valuable but
so are our families and our homes. If we can’t pay for your pay raises we loose our homes. Your employees are actually our employees because they work for us, the taxpayers. Our employees should be able to understand that, it is called compassion.

Mary Niecamp addressed the Committee. She agrees with erring on the side of caution. She works as self-employed and her place of employment has shut down and her income has gone to almost nothing. She works as an actor and theater may not come back for years. She has no way of paying a tax increase and tax increases come when we don’t meet our budget. We talk about cutting projects but we just passed a TIF that she spoke against. People are the most valuable and she would rather it go there but this is an increase well beyond the average at a time when both of her pay streams have been cut. This is one of the reasons why she plans of leaving Batavia once her children are grown because there is a lack of a sense of community concern. There is a lack of people in the community actually being represented. This is the time to err on the side of a modest increase if anything at all.

Motion: To recommend approval of Ordinance 20-72: An Ordinance Amending the 2021 Wage and Salary Ordinance for Non-Collective Bargained Employees
Maker: Wolff
Second: McFadden
Roll Call Vote: Aye: Wolff, Cerone, McFadden, Chanzit
Nay: Callahan, Meitzler, Uher, Miller, Russotto, Beck, Knopp, Baerren
4-8 Vote, 2 Absent. Motion failed.

Motion: To recommend approval of Ordinance 20-72: An Ordinance Amending the 2021 Wage and Salary Ordinance for Non-Collective Bargained Employees amended with a 1% increase and revisit mid-year to assess if the remaining 1.5% increase could be awarded retroactively
Maker: Russotto
Second: Baerren
Roll Call Vote: Aye: Russotto, Beck, Chanzit, Baerren, Cerone
Nay: Miller, Knopp, Wolff, Callahan, Meitzler, Uher, McFadden
5-7 Vote, 2 Absent. Motion failed.

Motion: To recommend approval of Ordinance 20-72: An Ordinance Amending the 2021 Wage and Salary Ordinance for Non-Collective Bargained Employees and revisit the budget in six months and assess the status of the budget and the economy at that time
Maker: McFadden
Second: Cerone
Roll Call Vote: Aye: McFadden, Beck, Chanzit, Wolff, Cerone
Nay: Miller, Russotto, Knopp, Baerren, Callahan, Meitzler, Uher
5-7 Vote, 2 Absent. Motion failed.

Motion: To recommend approval of Ordinance 20-72: An Ordinance Amending the 2021 Wage and Salary Ordinance for Non-Collective Bargained Employees amended and revisit the budget in six months and assess the status of the budget and the
Committee of the Whole
December 1, 2020
Page 12

economy at that time with the addition of the reduction of $150,000 in cost to the 2021 budget identified and said cuts would be reviewed at some point during 2021 to possibly be restored through a budget amendment

Maker: Uher
Second: Callahan
Roll Call Vote: Aye: Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp, Chanzit, Baerren, Wolff, Callahan, Meitzler
Nay:
12-0 Vote, 2 Absent. Motion carried.

21. Ordinance 20-73: An Ordinance Regulating the 2021 Wages and Salaries for the Paid-On-Call Members of the Fire Department (WCB 12/01/20) GS
Chanzit summarized the memo and noted that this is recommended at a 2.5% increase.

Motion: To recommend approval of Ordinance 20-73: An Ordinance Regulating the 2021 Wages and Salaries for the Paid-On-Call Members of the Fire Department
Maker: Chanzit
Second: Callahan
Roll Call Vote: Aye: Chanzit, Baerren, Wolff, Callahan, Meitzler, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp,
Nay:
12-0 Vote, 2 Absent. Motion carried.

CONSENT AGENDA

22. Ordinance 20-74: An Ordinance Regulating the 2021 Payment for ESDA Volunteer Members (WCB 12/01/20) GS
Chanzit overviewed the memo and noted that the recommendation for a cost of living increase for the ESDA Manager who serves at the recommendation of the Chief.

Motion: To recommend approval of Ordinance 20-74: An Ordinance Regulating the 2021 Payment for ESDA Volunteer Members
Maker: Chanzit
Second: Callahan
Roll Call Vote: Aye: Chanzit, Baerren, Wolff, Callahan, Meitzler, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp,
Nay:
12-0 Vote, 2 Absent. Motion carried.
CONSENT AGENDA

Chair Wolff overviewed the memo. This would be a rate increase of 3% for the 2021 budget for water usage. Chair Wolff commented that although now is not the time to raise anything, looking at the list of projects that need to be completed shows this needs to stay in the budget for this year. If it does not stay in our budget we will get behind and we will not have reserves to use in the Water Department.
Motion: To recommend approval of Ordinance 20-70: Amending the Municipal Code Relating to Water Usage Rates
Maker: Wolff
Second: Knopp
Roll Call Vote: Aye: Wolff, Callahan, Meitzler, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp, Chanzit, Baerren
Nay: 12-0 Vote, 2 Absent. Motion carried.

Chair Wolff overviewed the memo.
Motion: To recommend approval of Resolution 20-133-R: Authorizing Execution of the Temporary Construction Easement Agreement with the State Bank of Geneva (Shodeen Group) Related to the Water Treatment Plant Rehabilitation Project
Maker: Wolff
Second: Russotto
Roll Call Vote: Aye: Wolff, Callahan, Meitzler, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp, Chanzit, Baerren
Nay: 12-0 Vote, 2 Absent. Motion carried.
CONSENT AGENDA

25. Resolution 20-134-R: Approving a Construction Contract with Electric Conduit Construction to Build a Fiber Hut/Critical Infrastructure Communication Node Shelter at Paramount Substation for an amount not to exceed $266,677, which Includes 10 Percent Contingency Amount (RB 11/23/20) PU
Holm discussed the resolution with the Committee.
Motion: To recommend approval of Resolution 20-134-R: Approving a Construction Contract with Electric Conduit Construction to Build a Fiber Hut/Critical Infrastructure Communication Node Shelter at Paramount Substation for an amount not to exceed $266,677, which Includes 10 Percent Contingency Amount
Maker: Wolff
Second: Knopp
Roll Call Vote: Aye: Wolff, Callahan, Meitzler, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp, Chanzit, Baerren
Nay: 12-0 Vote, 2 Absent. Motion carried.
CONSENT AGENDA

26. Project Status
Newman reported on the following:
• The Kane County Coronavirus Relief Fund Grant Allocation has been received and we can deposit it into our account. We are very grateful for the County allocating those funds to us during this extraordinary year.

• The Park District contacted us to share in the expense on the full reconstruction of the parking lot by the Quarry because we utilize a third of it. We included a number of $20,000 to assist them with that. Unfortunately, the parking lot replacement will be $670,000 but they are only asking for the city to pay for one half of one third of that. That amount is $116,666. Newman stated that she told the Park District that she would bring this up at this meeting. We will have internal discussion with staff and we will bring the discussion to the Committee at an upcoming Committee of the Whole meeting.

• The Police Department has received their Use of Force certification from the Federal Government. This was a new requirement for Police Departments and was necessary to complete and receive that certification prior to being able to apply for Federal grants.

• All the public dining outdoor furniture has been removed and roads are now reopened for the winter. We are still waiting to receive our permit from IDOT for the One Way on North River Street. We will implement the One Way direction once the permit is received.

• Kane County announced that they have $5 million dollars for grants for small businesses in increments up to $25,000. This has been advertised on social media and the secretary will be calling these Batavia businesses to let them know of the grant funding that exists and supply them with the information needed in order to submit an application for that money.

27. Other
Callahan asked on the status of the Water Street area project. Newman answered that BEI is the owner of that property and they have been working with a developer to right size the project. They are trying to design a project that their but/for is less than or equivalent to the increment that would be generated by the project. They are revising that project and we have not yet received their revisions. Callahan asked if it is a requirement to complete a comprehensive study of that area. Newman answered no, the project is not contingent upon use doing such a study.

28. Adjournment
Chair Wolff asked for a motion to adjourn the meeting at 10:52pm; Made by Knopp; Seconded by Uher. Motion carried.
Chair Wolff called the meeting to order at 7:00pm.

1. Roll Call

Members Present: Chair Wolff; Ald. Miller, Russotto, Beck, Knopp, Chanzit, Baerren, Callahan, Malay, Meitzler, Uher, Cerone, McFadden

Members Absent: Alderman O’Brien

Also Present: Mayor Schielke; Laura Newman; Chief Eul, City of Batavia Police Department; Gary Holm, Director of Public Works; Wendy Bednarek, Director of Human Resources; Scott Buening, Director of Community Development; Rahat Bari, City Engineer; Jeff Albertson, Building Commissioner; and Jennifer Austin-Smith, Recording Secretary

2. Reminder: Please speak into the microphone for BATV recording

3. Approve Minutes for October 27, 2020 and November 10, 2020

Motion: To approve the minutes for October 27, 2020 and November 10, 2020
Maker: Russotto
Second: Knopp

Roll Call Vote: Aye: Russotto, Beck, Knopp, Chanzit, Baerren, Wolff, Callahan, Malay, Meitzler, Uher, Cerone, McFadden, Miller
Nay:
13-0 Vote, 1 Absent. Motion carried.

4. Items to be Removed/Added/Changed

The Committee discussed agenda item 8 after agenda item 6.

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

There were no matters from the public at this time.

6. Presentation: Proposal for a Comedy Club Business at 18 E. Wilson Street and TIF Incentive – Michael Knuth

Newman reported that this proposal is for a comedy club that is offering live comedy and entertainment in a bright and lively atmosphere. This would be an incredible complement to downtown Batavia. They are going to focus on bringing amazing entertainment in and serving up
fun cocktails, wine and local craft beers. They will also be serving food. The applicant, Michael Knuth, is currently the owner of Evenflow in downtown Geneva. They are proposing a major renovation to the building, taking it from a bank operation to completely designing it into a nightclub atmosphere. They estimate the build out cost to be $250,000. What the City has typically done for TIF incentive is a grant amount of $25,000 and a low interest loan in the amount of $75,000. The term of the loan would be four years, which is the remaining amount of time that TIF 1 will exist and the interest of that loan would be 2%. Financial information, business plan for the Comedy Vault, profit and loss statements for Evenflow and copies of tax returns have been received. Staff is recommending that the City Council consider providing the incentive of the $25,000 grant and $75,000 low interest loan for four years to Mike Knuth and Liz Valaitis so they could bring this business to fruition. Newman noted that the building will need to be sprinklered in order for this business to open and that will be a significant cost on the part of the building owner who may also be requesting assistance in order to facilitate accomplishing the project.

Michael Knuth, applicant, added that they would like to be more than a comedy venue. They would like to get brunches, lunches, and local meetings on the nights that they are not doing comedy. They plan on doing two shows on Thursday, Friday and Saturday every week.

Michael Marconi, building owner, announced that he would be requesting assistance for the building’s safety improvements.

**Motion:** To direct staff to proceed to prepare the documents necessary to effectuate the grant and the loan to the business owners of the ‘Comedy Vault’

**Maker:** Callahan

**Second:** Cerone

**Roll Call Vote:**

- **Aye:** Callahan, Malay, Meitzler, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp, Chanzit, Baerren, Wolff

- **Nay:**

  13-0 Vote, 1 Absent. Motion carried.

7. **Presentation: Streetscape Progress (Abby Beck)**

Ald. Beck presented on the Streetscape Advisory 2020 Review utilizing a shared screed via GotoWebinar. The presentation included the following information:

- Committee Members
- Presentation Agenda
- Big Picture
  - Streetscape Plan Goes
  - Placemaking
  - Beautification
- Process
- Next Steps
  - Community
  - Council

CD

Albertson overviewed the process for nomination of landmark designation. Knopp stated that reading through Title 12 to understand what the process is to file a nomination on a property, one of the requirements is the nominating form has to indicate when the property owners were talked to. The application was submitted on the 21st of September and it states that the property owners were contacted on the 29th of September after the nomination was filed. The property was listed for sale in March of 2020. The sale closed on September 24th. The notice was filed on the 21st of September. The new owner moved in on the 28th of September. Why then, and why this property. The only other property that has gone through this process is the Campana building. Knopp is curious why Belleview Place, where Mary Todd Lincoln has stayed, has not gone through this process yet because it is outside the Historic District. Albertson stated that the owner at that time was the bank of record, right after that notice was sent and before the Public Hearing we found out that the property was sold. That is when the Public Hearing notice was sent to the current property owner. There was some concern that this property might be subject to demolition. The applicant found it necessary to file the application to move forward with this property at this time. The applicant is on the Historic Preservation Commission (HPC) but she is unfortunately not in attendance at tonight’s meeting. Anyone could file an application to landmark a building, including the Belleview Place, and it would then go through this process. Albertson overviewed the HPC meeting and the criteria in which the HPC approved the recommendation for landmark designation.

Heidi Houff, owner of 210 North Washington, addressed the Committee. She shared that she has been here since the 28th of September. In that time, she has received no formal notice whatsoever about any hearing or designation for her property. She heard that it was going through this designation after she bought the house by a fluke. She found out while Googling her property to find out more about the house and the property. She had spoken with her real estate attorney and realtor who assured her that it does not have historical designation so that she would not have to go through the extra hoops or incur the extra expenses when purchasing the house. She has no intentions on demolishing the house. She has a large problem with after buying a home the welcome to the neighborhood is being told what I can and cannot do with her property. Houff explained there are a lot of financial implications of having your house designated as a historical home. There are a lot of hoops one has to go through and she already has a big enough project on her hands and she does not need it to be any harder. She is not planning on doing
anything major to the structure. Down the road she may want to pop up the roof and actually have more than one bedroom where an average person could stand. She is not in favor of this designation.

Albertson stated that, similar to a property that is in the Historic District, nothing done on the interior of the structure would be applicable to this designation. This would only apply to the exterior view of the structure, such as windows, doors, and roof. There would be an additional step of applying for a Certificate of Appropriateness (COA) and go the HPC meeting. The HPC has been very good at working with property owners. They are very reasonable and are willing to work with newer technology to keep the look of the old structure.

Knopp stated that the homeowner stated that she does not plan on demolishing this home. Is this something that we should pursue? Newman stated that the only issue there, and she doesn’t doubt Ms. Houff at her word, but as owner of the property she could dispose of the property tomorrow if she so wishes and the next owner could very well decide demolition is exactly what they would like to do and build something new. Having promises from homeowners is great but it is not enforceable unless we have that designation. It is up to City Council to determine. Up to this point, we have had very good experiences with people with historic homes and we could have that continue to be the norm.

Miller stated that regardless of who submitted the application, the homeowner does not want it. We should not be saying yes to this if the homeowner is not on the application and does not want it. None of us would want this for our own personal house unless we wanted it. Malay agreed. If finding out a home was not under landmark status and that influenced my decision to buy a house to later find out that this is happening he finds that very problematic.

Callahan pointed out that the applicant was unable to attend tonight’s meeting. Callahan stated that we owe it to the applicant to hear what her thought process was and her concerns as to why she submitted the application. Callahan stated that he is of the opinion to table this since there is no immediate action necessary.

Motion: To table Ordinance 20-75 until the next Committee of the Whole meeting on January 5, 2021
Maker: Knopp
Second: Malay
Roll Call Vote: Aye: Knopp, Chanzit, Baerren, Wolff, Callahan, Malay, Meitzler, Uher, Cerone, McFadden, Miller Russotto, Beck
Nay:
13-0 Vote, 1 Absent. Motion carried.

9. Ordinance 20-78: Declaring Surplus Property (SRM 12/8/20) CS
Wolff overviewed the memo.

Motion: To recommend approval of Ordinance 20-78: Declaring Surplus Property
Maker: Wolff
Second: Baerren
Roll Call Vote: Aye: Wolff, Callahan, Malay, Meitzler, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp, Chanzit, Baerren
Nay: 13-0 Vote, 1 Absent. Motion carried.

Newman expressed the value that John Dillon has provided in regard to our windmills. The windmill on the south plaza was damaged in a severe windstorm a couple of years ago. Without John Dillon’s expertise and him being able to harness the work of several volunteers in the area and rebuilt every little wooden spoke and the mechanics to see it reinstalled. If we relied on external experts like that there is one that we know of in Illinois and there are very few in the United States. John has been a very valuable resource to us. Holm stated that if there is anything that is a community identity asset that falls in the realm of City Council, this is it. These are the windmills that are the City’s symbol and are on our City’s logo. Callahan noted that the windmills are a part of the economic development and are an attraction to our area. Chanzit added that it is a public museum. Newman announced that, last week, a freelance writer who was writing an article for the Chicago Tribune about the Fox River bicycle trails interviewed her. The writer wanted to focus on the stretch between Batavia and North Aurora and she asked which side of the river could people view the windmill collection in Batavia. It is important thing that people come to our community to see.

Motion: To recommend approval of Resolution 20-135-R: Authorization of Employee Agreement with John Dillon
Maker: Chanzit
Second: Knopp
Roll Call Vote: Aye: Chanzit, Baerren, Wolff, Callahan, Malay, Meitzler, Uher, Cerone, McFadden, Miller Russotto, Beck, Knopp
Nay: 13-0 Vote, 1 Absent. Motion carried.

11. Resolution 20-138-R: Authorizing a Contract with GovHR in the amount of $21,000 for Recruiting of the Project Engineer Position (GH 12/11/20) PU
Holm overviewed the memo. The Committee discussed the credentials of GovHR, the difficulty filling this role, and the advantage of partnering with GovHR.

Motion: To recommend approval of Resolution 20-138-R: Authorizing a Contract with GovHR in the amount of $21,000 for Recruiting of the Project Engineer Position
Maker: Wolff
Second: Russotto
Roll Call Vote: Aye: Wolff, Callahan, Malay, Meitzler, Uher, Cerone, McFadden, Miller Russotto, Beck, Knopp, Chanzit, Baerren
Nay: 13-0 Vote, 1 Absent. Motion carried.
Holm overviewed the memo. Knopp requested that the redline version of this document be provided prior to City Council. Holm stated that he would provide that document.

Motion: To recommend approval of Ordinance 20-76: Amending Title 8, Chapter 1 of the Municipal Code Related to Interconnecting Small Photovoltaic Systems
Maker: Wolff
Second: Knopp
Roll Call Vote: Aye: Wolff, Callahan, Malay, Meitzler, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp, Chanzit, Baerren
Nay: 13-0 Vote, 1 Absent. Motion carried.

13. Resolution 20-136-R: Authorizing a Contract Execution with Michels Power to Provide Substation Construction Services for Paramount Park Substation Upgrade for an Amount not to exceed $1,949,731 Which Includes 10 Percent Contingency Amount (RB 12/10/20) PU
Holm overviewed the memo.

Motion: To recommend approval of Resolution 20-136-R: Authorizing a Contract Execution with Michels Power to Provide Substation Construction Services for Paramount Park Substation Upgrade for an Amount not to exceed $1,949,731 Which Includes 10 Percent Contingency Amount
Maker: Wolff
Second: Knopp
Roll Call Vote: Aye: Wolff, Callahan, Malay, Meitzler, Uher, Cerone, McFadden, Russotto, Beck, Knopp, Chanzit, Baerren
Nay: 12-0 Vote, 2 Absent. Motion carried.

*Alderman Miller had technical difficulty and was marked as absent for this vote.

14. Resolution 20-137-R: Authorizing Task Order #13 with Power System Engineering (PSE) to Provide Construction Supervision for Paramount Park Substation Upgrade for an amount not to exceed $244,344 (RB 12/10/20) PU
Holm summarized the memo.

Motion: To recommend approval of Resolution 20-137-R: Authorizing Task Order #13 with Power System Engineering (PSE) to Provide Construction Supervision for Paramount Park Substation Upgrade for an amount not to exceed $244,344
Maker: Wolff
Second: Uher
Roll Call Vote: Aye: Wolff, Callahan, Malay, Meitzler, Uher, Cerone, McFadden, Miller, Russotto, Beck, Knopp, Chanzit, Baerren
Nay:
13-0 Vote, 1 Absent. Motion carried.

15. Discussion: Police Department Input on Zoning Code Changes to Allow Adult Use Cannabis Dispensaries (DE 12/09/20) (GS)
Newman reported that the Police Department did a tremendous amount of research with municipalities that have experience with this. She welcomed Chief Eul to present the findings. Chief Eul extended gratitude to the Council for taking a ‘wait and see’ approach to this. Being able to wait and see how this has gone with other communities has been very helpful in formulating their opinion. The most significant considerations were site security of these establishments (e.g. real time security camera feeds shared with local police departments), vehicle traffic and pedestrian congestion, hours of operation, and on-site consumption. Chief Eul stated that on-site consumption is the most important to address. He explained that this is an entirely different product and the absorption rate into the human body is vastly different than it is with alcohol. The potency of cannabis products is all over the board, especially with vapor products. Edibles have the likelihood of being over consumed. The best way to go forward would be no on-site consumption and no hookah lounges.

16. Project Status
Newman reported on the following:
- Finance is working on the year-end audit. The preliminary audit will be Friday, December 18th.
- The City has received permits for the Suncast solar array installation. We have also received the permit for the industrial building on Pearson Drive.
- Plan Commission is going to have a Public Hearing on the proposed changes to the cannabis regulations. This meeting will be held remotely via GotoWebinar.
- The Historic Preservation Commission reviewed a replacement sign on the Campana building at their meeting on December 14th.
- Anthony Isom and Scott Buening attended the International Council of Shopping Centers show in New York last week. This year it was online. They are following up with some retailers by showing them spaces here that would be appropriate for their businesses.
- Public Works has sent out a survey to homeowners that potentially have lead water service lines. Those homeowners are strongly urged to reply to the survey. The survey is being done in support of the City’s application for grant funding to assist with the replacement of those lead service lines.
- Engineering is to discuss the conceptual ideas related to the Fermi Lab detention basin along the Mahoney Creek Tributary. And electric completed a quality based selection process for construction engineering for the Paramount Substation reconstruction project.

17. Other
Callahan stated some residents had trouble logging in to the GotoWebinar. He asked that further directions be added as well as highlighting the phone option. Newman stated that Howard Chason reengineered the process for those registering to attend a meeting.

Cerone shared information on the Facebook initiative titled “We Side For Batavia Restaurants” and asked for those to join and help our restaurants out and take a break from cooking.
Newman stated that she heard from Margaret and the Chamber today that out of five thousand dollars in Chamber Bucks that they were selling for downtown businesses they only have $21 of Chamber Bucks remaining.

18. Adjournment
Chair Wolff asked for a motion to adjourn the meeting at 9:54pm; Made by Knopp; Seconded by Cerone. Motion carried.
Introduction

On Tuesday, December 15th, Michael Knuth, a resident of Aurora, and current owner of the successful Even Flow Music and Spirits in Geneva, Illinois and Elizabeth Valaitis of Algonquin, Illinois presented the Committee of the Whole with their plans to open a comedy club in the former bank building at 18 E. Wilson St.. Because of the significant costs associated with converting this building from a bank into a comedy club, they are requesting financial support from the City in form of a Tax Increment Financing District grant and a low interest loan.

Comedy Club Specifics

According to The Comedy Vault’s Business Plan (attached), it will be a hip comedy club offering live comedy and entertainment in a bright, lively, and inviting atmosphere that will complement the burgeoning growth happening in Batavia’s downtown. The Comedy Vault will focus on bringing amazing comedians and entertainers to the stage as well as serving up fun cocktails, wine and local craft beers. They plan to serve food catered in by their sister location, Even Flow as well as other local restaurants.

Although intended as primarily an entertainment venue, the owners have expressed their willingness to provide event space for public and private organizations.

Mr. Knuth and Ms. Valaitis will make a presentation during Tuesday night’s JCOW meeting to better explain their business plan as well as their innovative interior design ideas to transform a very traditional bank interior into a lounge-like atmosphere, while still paying homage to the building’s former use.

Preliminary floor plans for The Comedy Vault depict seating for approximately 100 patrons on the main floor. The former bank’s large vault will serve as the bar area. Talent would enter from the rear of the building near which is located a room that will serve as the “green room” for entertainers to relax before and after their sets. Adjacent to this area would be space for food preparation and storage.

Provided Mr. Knuth and Ms. Valaitis receive the financial assistance they are requesting from the City, construction can begin as soon as building plans have been reviewed and approved and a permit is issued, with a possible Q1 2021 opening.

TIF Financial Incentive Terms and Conditions

The total project cost in establishing The Comedy Club at 18 East Wilson Street is estimated to be $250,000 (approximately $200,000 for build-out and $50,000 to purchase equipment, furniture,
dishware, etc.). As previously stated, the subject space will need to be completely renovated to accommodate this new use. If it were solely the responsibility of the building owner to make the required build-out improvements for the comedy club, rent rates would be prohibitive. Consequently, these costs are being assigned to the tenant and, at $250,000, “but for” the city’s financial assistance, make this business venture otherwise economically unviable.

As such, Mr. Knuth and Ms. Valaitis are requesting: 1. a TIF grant in the amount of $25,000; and 2. a low interest loan in the amount of $75,000. The term and interest on this loan will be four years and 2%, respectively. The owners have submitted and staff has reviewed the required financial information (i.e., Business Plan and pro forma for The Comedy Vault and Profit and Loss Statements covering 2018 and 2019 for Even Flow, and copies of their 1040 federal tax returns for 2018 and 2019). For their part, the business owners will undertake and complete the building improvements as planned and necessary to facilitate The Comedy Club, and will open for business the subject comedy club at 18 E. Wilson Street.

Staff Recommendation

Having reviewed the information concerning the proposed Comedy Vault comedy club, information presented on the existing Even Flow in Geneva, and having considered the potential positive impact the proposed entertainment venue will have on the immediate area and on downtown Batavia’s business community generally, staff recommends that COW recommend that City Council approves ORD 21-08 authorizing execution a TIF Redevelopment Agreement with Comedy Vault, LLC (D/B/A The comedy Vault) relating to the building improvements at 18 East Wilson, River Street.

Cc: Mayor Schielke
Department Heads
Michael Knuth
Elizabeth Valitis
Michael Marconi
CITY OF BATAVIA, ILLINOIS
ORDINANCE 21-08

AN ORDINANCE AUTHORIZING EXECUTION OF
A TIF REDEVELOPMENT AGREEMENT WITH
COMEDY VAULT, LLC (D/B/A THE COMEDY VAULT) RELATING TO THE
BUILDING IMPROVEMENTS AT 18 EAST WILSON, RIVER STREET

ADOPTED BY THE
MAYOR AND CITY COUNCIL
THIS 19th DAY OF JANUARY, 2021

Published in pamphlet form
by authority of the Mayor
and City Council of the City of Batavia,
Kane & DuPage Counties, Illinois,
This 19th day of January, 2021

Prepared by:
City of Batavia
100 N. Island Ave.
Batavia, IL 60510
CITY OF BATAVIA, ILLINOIS
ORDINANCE 21-08

AN ORDINANCE AUTHORIZING EXECUTION OF
A TIF REDEVELOPMENT AGREEMENT WITH
COMEDY VAULT, LLC (D/B/A/ THE COMEDY VAULT) RELATING TO THE BUILDING
IMPROVEMENTS AT 18 EAST WILSON STREET

WHEREAS, the City of Batavia is authorized by Illinois Law to create tax increment financing redevelopment areas within its boundaries to aid in the redevelopment of certain areas of the City; and

WHEREAS, in 1989, the City of Batavia enacted those ordinances necessary to create such an area in a portion of the Batavia downtown, commonly known as TIF District 1; and

WHEREAS, Comedy Vault, LLC (d/b/a The Comedy Vault) is considering a new Comedy Club enterprise in downtown Batavia, specifically at 18 East Wilson Street, and within TIF District 1 and;

WHEREAS, Comedy Vault, LLC (d/b/a The Comedy Vault) has proposed improvements to the property in cooperation with the property owner, , which would include permanent building renovations; and

WHEREAS, the City Council has determined that the improvements would not be possible without the assistance of TIF funds to aid in the project, such assistance to be comprised of both a grant of funds and the extension of a loan; and

WHEREAS, a certain Agreement entitled "Comedy Vault, LLC (d/b/a The Comedy Vault), 18 East Wilson Street Redevelopment Agreement," a copy of which is attached hereto as Exhibit 1, should be entered into to provide the opportunity for said redevelopment, and

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

SECTION 1: That the Mayor and City Clerk are authorized to execute the document entitled "Comedy Vault (d/b/a The Comedy Vault), 18 East Wilson Street Redevelopment Agreement,” which is attached hereto as Exhibit 1.

SECTION 2: That this Ordinance shall be in full force and effect from and after its presentation, passage, approval, and publication in pamphlet form as provided by law.
PRESENTED to and PASSED by the City Council of the City of Batavia, Illinois, this 19th day of January, 2021.

APPROVED, by me as Mayor of said City of Batavia, Illinois, this 19th day of January, 2021.

Jeffery D. Schielke, Mayor

<table>
<thead>
<tr>
<th>Ward</th>
<th>Aldermen</th>
<th>Ayes</th>
<th>Nays</th>
<th>Absent</th>
<th>Abstain</th>
<th>Aldermen</th>
<th>Ayes</th>
<th>Nays</th>
<th>Absent</th>
<th>Abstain</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>O'Brien</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Baerren</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Callahan</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Wolff</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Chanzit</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Meitzler</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Malay</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Knopp</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Uher</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Beck</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Cerone</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Russotto</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>McFadden</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Miller</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

VOTE: Ayes Nays Absent Abstentions
Total holding office: Mayor and 14 aldermen

ATTEST:

Ellen Posledni, City Clerk
Comedy Vault, LLC (d/b/a The Comedy Vault), 18 East Wilson Street

REDEVELOPMENT AGREEMENT

This Agreement made this _______ day of _________, 2021, by and between the City of Batavia, an Illinois municipal corporation, ("City"), and Comedy Vault, LLC (d/b/a The Comedy Vault) ("Developer").

RECITALS

A. The City has the authority to promote the health, safety and welfare of the City and its inhabitants, to prevent the spread of blight and to encourage private development in order to enhance the local tax base and create employment, and to enter into contractual agreements with third parties for the purpose of achieving the aforesaid purposes.

B. Developer desires to establish a new comedy club at 18 East Wilson Street and on the property legally described on Exhibit A attached hereto and made a part hereof (the "Property"). The Property lies within the Downtown Tax Increment Finance District #1 redevelopment area (the "Redevelopment Project Area"). Developer has submitted a list of building improvement activities associated with the planned expansion and with cost estimates totaling an amount in excess of $220,000. City and Developer have agreed that not all such activities are subject to this instant Agreement and that, for the purposes of this Agreement, only those that are shall be known as the “18 E. Wilson Street Project” or “Project”.

C. Construction and equipment purchase and installation activities that are subject to this Agreement shall be known as the “Project Improvements” and are deemed essential for the business to successfully expand its operations and economic viability. These improvements are eligible for contribution by the City as the “Eligible Project Improvements” and consist of:

Demolition
Construction/Frame out
Electrical
Plumbing
Drywall, Paint and Finishing
Food Prep and Storage Areas
Storage Area
Bathrooms
Office Buildout
Exterior Signage

The above Project Improvements, eligible for contribution by the City, shall be known as the “Eligible Project Costs” and are estimated to carry a total cost in excess of $140,000, including a 20% contingency. These estimates may not ultimately reflect the actual costs of these Project Improvements, but in no event shall the City contribute more than $100,000 in total cumulative costs, or actual costs, whichever is lower. The parties acknowledge that the Developer would not move forward with the Project, to the detriment of the City and its goals.
for downtown redevelopment, nor would the Project occur without the contributions toward the Project Costs made by the City under this Agreement.

C. The City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, Sections 11-74.4-1 et seq., of Ch. 24, 111. Rev. Stat., as amended (the "Act"), to finance redevelopment in accordance with the conditions and requirements set forth in the Act.

D. To stimulate and induce the acquisition and redevelopment of the Redevelopment Project Area, and pursuant to the Act, the City adopted the following ordinances ("TIF Ordinances" or "Ordinances"):

Ordinance No.89-80, being an Ordinance Approving the Riverfront Tax Increment Redevelopment Plan and Riverfront Redevelopment Projects;

Ordinance No 89-81 , being an Ordinance Designating Riverfront Tax Increment Project Area;

Ordinance No.89-82 , being an Ordinance Adopting Tax Increment Financing for Downtown Redevelopment Project," all properly adopted by the City Council of the City of Batavia on December 4, 1989 ; and

E. For the purpose of contributing a portion of the Project Costs, the City Council contemplates a grant of $25,000, and a loan to the Developer in an amount not to exceed $75,000.

FOR AND IN CONSIDERATION of the mutual covenants described above and the agreements contained below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

I

INCORPORATION OF RECITALS

The recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Section I, and this Agreement shall be construed in accordance therewith.

II

CERTAIN DEVELOPER’S COVENANTS AND REPRESENTATIONS

Developer represents and covenants to the City as follows:

2.01 Developer shall be governed by, adhere to and obey any and all applicable federal, state and local laws, statutes, ordinances, rules, regulations and executive orders applicable to the Project as may be in effect from time to time, including the ordinances referred in the recitals to this agreement.
2.02 Developer shall proceed diligently to carry out the construction of the Project as required pursuant to this Agreement.

2.03 (i) Developer is a limited liability company organized and validly existing and in good standing under the laws of the State of Illinois; (ii) Developer has the right and power and is authorized to enter into, execute, deliver and perform this Agreement and to execute and deliver the 18 E. Wilson/Comedy Vault, LLC Redevelopment Note (“Redevelopment Note”), attached as Exhibit B hereto, incorporated herein and more fully described hereinafter; (iii) the execution, delivery and performance by Developer of this Agreement shall not, by the lapse of time, the giving of notice or otherwise, constitute a violation of any applicable law or breach of any provision contained in Developer's corporation’s bylaws, or any instrument or document to which either Developer is now a party or by which it is bound; (v) Developer is now solvent and able to pay its debts as they mature; (vi) there are no actions at law or similar proceedings which are pending or threatened against Developer which might result in any material and adverse change to the Developer's financial condition, or materially affect the Developer's assets as of the date of this Agreement; (vii) the Developer has, or will have prior to receiving any of the payments set forth in this Agreement, all government permits, certificates, consents (including, without limitation, appropriate environmental clearances and approvals) and franchise necessary to continue to conduct its business and to lease and operate its business within the Property as now leased by it; and (viii) no default has been declared with respect to any indenture, loan agreement, mortgage, deed or other similar agreement relating to the borrowing of monies to which the Developer is a party or by which it is bound;

2.04 Developer shall not enter into any transaction during the development of the Project which materially and adversely affects Developer's ability to meet its obligations under the Redevelopment Note (“Adverse Event”). In the event the City reasonably believes such an Adverse Event has occurred and so notifies Developer in writing detailing the Adverse Event, the matter may be cured by developer by either satisfying the Adverse Event or the posting of a letter of credit or bond in such amount as the City shall reasonably determine, which amount shall not to exceed the amount remaining due on the Note.

2.06 All of the information provided regarding the Project, the Property and Developer is true, correct and complete to the best of Developer's knowledge.

III

CITY’S COVENANTS

3.01 The City represents and warrants that it has authority under Illinois Statutes to execute and deliver and perform the terms and obligations of this Agreement.

IV

CONSTRUCTION OF THE PROJECT
4.01 **Developer's Covenant to Redevelop.** No later than January 29, 2021, Developer shall submit to the City plans and application for a building permit to undertake the Project.

4.02 **Time for Completion of 18 East Wilson Project.** Developer, acting under the authority of the City, shall complete construction of the Project Improvements, no later than 180 days after the date of City approval of the plans, and construction must be completed prior to occupancy of that space. In the event Developer has not completed all the build out and secured a certificate of occupancy permit within 180 days, subject to force majeure, the City reserves the right to propose revisions on any of the terms of this Agreement or to terminate the agreement. In the event that the City declares the Agreement terminated, all sums paid out by the City shall be repaid to the City by the Developer within 30 days of the notice of termination.

4.03 **Prevailing Wage Act.** Developer is responsible for determining whether any portion of the Project Improvements must be completed in compliance with the Prevailing Wage Act 820 ILCS 130/.01 et seq. In the event that the Prevailing Wage Act applies, Developer shall insure that every contract and subcontract, purchase order and invoice (in the event there is no written contract) must contain a written requirement that all work done under such contract, subcontract, purchase order or invoice must be done in compliance with the Prevailing Wage Act, including the obligation to pay not less than the prevailing rates of wages to all laborers, workmen, and mechanics performing work on the Project and in compliance with the requirements of the Illinois Wages of Employees on Public Works Act 820 ILCS 130/1-12, to the extent they are applicable, including without limitation, the submission of certified monthly payroll reports as required by 820 ILCS 130/5. In the event that the Prevailing Wage Act does apply, any failure to timely submit certified monthly payroll reports shall be cause for the withholding of payments otherwise due under this Agreement until compliance with the reporting requirements is achieved. Compliance with the Prevailing Wage Act, to the extent that it applies, shall be the Developer's obligation, and the Developer shall indemnify and hold harmless the City from and against liabilities that might attach for non-compliance. It is acknowledged and agreed that the provisions of this Section 4.03 apply only to the construction of the Project Improvements, and not to the maintenance, repair and or replacement of same following initial construction.

4.04 **Compliance with All Other Laws.** The Project shall be constructed in accordance with the requirements of this Agreement and shall be in conformity with all applicable laws, ordinances and regulations.

4.05 **Continued Operations.** After completion of the Project, the Developer shall open the establishment as a comedy club open to the public and seating approximately one (100) hundred guests. In the event that the Developer does not conduct business operations continuously for a period commencing from the opening and ending on December 31, 2024, the Developer shall repay to the City all money paid by the City to the Developer pursuant to the TIF Grant and the loan contemplated by this Agreement. For purposes of this section “Business Operations” shall mean that the comedy club is open for performers at least twelve (12) nights per month. In the event that Business Operations cannot be maintained because of prohibited operations imposed by State or local officials, the Business Operations requirements shall be suspended for the duration of the period when operations are prohibited. However, if Business Operations do
V

COMPLETION

5.01. Issuance of Certificate of Occupancy. After completion of the construction of the Project Improvements in accordance with this Agreement, the issuance by the City of a Certificate of Occupancy for the project space shall be a conclusive determination of satisfaction with respect to the obligations of Developer and its successors and assigns to construct the Project Improvements or cause them to be constructed. The City shall use its best efforts to respond to Developer's written request for a Certificate of Occupancy within 10 days after the City Building Commissioner’s receipt thereof, either with the issuance of a Certificate of Occupancy, or with a written statement indicating in adequate detail how Developer has failed to complete the construction in conformity with this Agreement, or is otherwise in default, and what measures or acts, will be necessary, in the opinion of the City Building Commissioner for Developer to take or perform in order to obtain the certificate. If the City requires additional measures or acts of Developer to assure compliance, Developer shall resubmit a written request for a Certificate of Occupancy upon compliance with the City's response.

VI

UTILITY CONNECTIONS AND PERMIT FEES

6.01 Utility Connections. The Developer shall request and the City shall not unduly deny or delay permission to connect City utilities as may be required to complete the Project.

6.02 Permit Fees. City agrees that Developer shall be obligated to pay, in connection with the construction of the Development, only those building, permit, engineering, right of way and inspection fees that are assessed on a uniform basis throughout the city and are of general applicability to other property within the city.

VII

USE OF MUTILPLE CONTRACTORS

8.01 Notwithstanding anything to the contrary herein contained, Developer has the right to enter into separate contracts for the Project Improvements.

VIII

DISBURSEMENT AND OBLIGATIONS

8.01 Source of Funds for Payment of City’s Contribution to Project Costs On December 4, 1989, the City adopted City of Batavia Ordinance 89-82, entitled ”Ordinance
Adopting Tax Increment Financing for Downtown Redevelopment Project (the "Real Estate Tax Increment Ordinance"). The Real Estate Tax Increment ordinance provides, in part, that ad valorem taxes, if any, arising from the levies upon taxable real property in the Redevelopment Project Area by taxing districts and tax rates determined in the manner provided in Sections 11-74.4-9 (c) of the Act, for each year after the effective date of the Real Estate Tax Increment Ordinance until the obligations issued in respect to the Redevelopment Project Area have been paid, or the termination of the TIF district by operation of law, whichever occurs earliest, which are attributable to the increase in the current equalized assessed valuation of each lot, block, tract or parcel of real property in the Redevelopment Project Area as certified by the Kane County Clerk, all as provided in Sections 11-74.4-8 and 11-74.4-9 of the Act (hereinafter the "Real Estate Tax Increment") shall be allocated to and when collected shall be paid to the County Collector who shall deposit the Real Estate Tax Increment in a special fund entitled “Batavia TIF District No. 1" (the "Special Fund") for the purpose of paying redevelopment project costs and obligations incurred by the City. As of the date of this Agreement, the City has available for deposit in the Special Fund, the full amount of $100,000.00.

The parties agree that tax increment allocation financing implemented in accordance with the terms and provisions of the Act shall be the only source of City funding for all of the costs of Project Improvements, provided, however, Developer shall pay the amount by which the actual Project Development Project Costs exceeds the total ceiling of $100,000.00.

8.02 Payments to Developer. The City shall pay a sum not to exceed $100,000.00, or 100% of the Eligible Project Costs, whichever is less, that sum to be known as the Total City Contribution. $25,000 shall be in the form of a grant, and Developer shall have no obligation to repay this grant, except in accord with the provisions of Section 4.02. The balance of the Total City Contribution shall be made in the form of a loan in the amount not to exceed $75,000 with a term of 48 months and an annual percentage rate of 2%, for which Developer shall execute the Note attached to this Agreement as Exhibit B at the occasion upon which the City’s payments to Developer under this Agreement exceeds $25,000. The entire total city contribution may only be utilized to pay Eligible Project Costs. Eligible Project Costs shall include any increased costs in any of the Eligible Project Improvements, provided that in no event shall the City be liable for more than $100,000.00 total cumulative costs.

Developer shall have the right to prepay the unpaid balance owing to the City in advance, in whole or in part, in Developer’s sole discretion and without penalty.

In the event Developer fails to make any monthly payment within five (5) days of its due date (the first of the month), and said failure to make the payment continues for a period of thirty (30) days after the provision of written notice of such failure by the City to Developer, then, in that event, the City will have the right to declare this Agreement in default. In the event of such default, the entire existing balance of the loan together with dollars paid pursuant to the TIF Grant shall be immediately due and payable in full.
8.03 Process for City Payment to Developer. Payments shall be made as follows:

- Upon presentation by Developer of a written Request for Payment accompanied by an invoice for completed work on Project Improvements, and the City (at its option) inspects or otherwise verifies that the work has been done in accord with this Agreement and state and local codes and ordinances, and that partial or final mechanic lien waivers sufficient to cover the City’s portion of the invoiced work have been properly issued, City shall, within 30 days of receipt of such invoice, pay to Developer the amount contained in the invoice.
- Said payments shall be made to Developer until City has paid $100,000.00 or 100% of the eligible Project costs, whichever is less.
- The City shall pay its share of Eligible Project Improvement Costs, even if individual segments of the Project Improvements exceed individual component estimates, but total City payments shall be capped at $100,000.00 or 100% of the Project Costs, whichever is less.
- Requests for reimbursement shall be made in minimum increments of $10,000.00.

8.04 Dissolution of Special Fund. Notwithstanding anything contained in this Agreement or in the Redevelopment Note to the contrary, the City shall pledge and maintain the Special Fund for the purposes stated herein until the first of the following to occur: (i) the failure of Developer to substantially perform the Project Improvements on or before the time specified in Section 4.02; (ii) payment by the City of its Total Project Costs; or (iii) expiration or dissolution of the TIF District.

8.05 Modifications to Project Improvements. Developer may, with the prior written approval of City, reduce excess costs by modifying the Project Improvements, provided that there is full compliance with the Approved Plans.

8.06 Opinions. The Developer shall deliver to City an opinion from the Developer’s counsel, in a form acceptable to the City’s attorney, providing that the Redevelopment Note is a valid and binding commitment of the Developer, fully enforceable in accordance with its terms.

IX

DEVELOPER RESPONSIBILITY FOR PAYMENT

Beyond City’s payment to Developer of the City’s contribution, Developer agrees to pay all costs for the Project as may be required for completion. The Developer represents that it has the equity and other financing necessary to complete the Project Improvements.
PERFORMANCE

10.01 Time of the Essence. It is understood and agreed by City and Developer that time is of the essence of this Agreement, and that all parties shall make every reasonable effort to expedite the subject matters hereof. It is further understood and agreed that the successful consummation of this Agreement shall require the continued cooperation of City and Developer. Whenever the consent or approval of City is required in order for Developer to accomplish the purposes and intent hereof, such consent shall not be unreasonably withheld or unduly delayed. If such consent or approval is denied, such denial shall be in writing, and shall specify the reason or reasons for such denial.

10.02 Delay. For the purposes of any of the provisions of this Agreement, neither the City nor Developer, as the case may be, nor any successor in interest, shall be considered in breach of, or default in, its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather condition such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or quantity for an abnormal duration, tornadoes or cyclones and other like event or condition beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge the respective obligations hereunder; nor shall either the City or Developer be considered in breach of, or default in its obligations under this Agreement in the event of a delay resulting from the conduct of any judicial, administrative or legislative proceeding or caused by litigation or proceedings challenging the authority or right of the City to act under the Redevelopment Plan, any of the ordinances, or perform under this Agreement. The City shall diligently contest any such proceedings and any appeals therefrom. The City may settle a contested proceeding at any point, so long as the settlement results in the City's ability to perform pursuant to this Agreement and so long as any such settlement does not impose additional obligations on Developer or increase its obligations under this Agreement, unless by agreement with the Developer. Provided, however, that the party seeking the benefit of the provisions of this Section 10.02 shall, within ten (10) days after the beginning of any such enforced delay, have first notified the other party thereof in writing, and of the cause or causes thereof, and requested an extension for the period of the enforced delay.

10.03 No Waiver by Delay. Any delay by City or Developer in instituting or prosecuting any actions or proceedings or in otherwise exercising its rights shall not operate as a waiver of such rights or to deprive it of or limit such rights in any way (it being the intent of this provision that the City and the Developer should still hope to otherwise resolve the problems created by the default involved). No waiver in fact made by the City with respect to any specific default by Developer should be considered or treated as a waiver of the rights of the City with respect to any other defaults by Developer or with respect to the particular default except to the extent specifically waived in writing. No waiver in fact made by the Developer with respect to any specific default by City should be considered or treated as a waiver of the rights of the Developer with respect to any other defaults by City or with respect to the particular default except to the extent specifically waived in writing.
10.04 **Breach.** Upon a breach of this Agreement, either of the parties in any court of competent jurisdiction, by any action or proceeding at law or in equity, may secure the specific performance of the covenants and agreements herein contained or may be awarded damages for failure of performance or both. Before any failure of any party to this Agreement to perform its obligations hereunder shall be deemed to be a breach of this Agreement, the party claiming such failure shall notify, in writing, the party alleged to have failed to perform of the alleged failure and shall demand performance. No breach of this Agreement may be found to have occurred if performance has commenced to the reasonable satisfaction of the complaining party within sixty (60) days of the receipt of such notice.

10.05 **Inspection Rights.** Any previously identified and agreed upon duly authorized representative of the City, at all reasonable times during normal business hours, shall have access at his/her sole risk to the Property for the purpose of confirming Developer's compliance with the Agreement.

XI

**INDEMNITY**

Developer hereby agrees to indemnify, defend and hold the City harmless from and against any losses, costs, damages, liabilities claims, suits, actions, causes of action and expenses (including without limitation, reasonable attorneys' fees and court costs) suffered or incurred by the City arising from or in connection with (i) the failure of Developer to perform its obligations under this Agreement or (ii) the failure of Developer or any contractor to pay contractors, subcontractors, or materialmen in connection with the Project Improvements or (iii) material misrepresentations or omissions in this Agreement or any financing documents related thereto which are the result of information supplied or omitted by the Developer or by agents, employees, contractors, or persons acting under the control or at the request of the Developer, or (iv) the failure of Developer to cure any misrepresentations or omissions in this Agreement or any other agreement relating hereto.

XII

**CITY'S RIGHT TO AUDIT DEVELOPER'S BOOKS AND RECORDS**

Developer agrees that the City shall have the right and authority to review and audit, from time to time, Developer's such books and records as relate to the Project Improvements (including Developer's general contractor's sworn statements, general contracts, subcontracts purchase orders, waivers of lien, paid receipts and invoices) in order to confirm that the City's Funds are or have been expended for purposes of undertaking the Project Improvements. Developer further agrees to incorporate the City's right to audit books and records as described herein into all contracts entered into by Developer with respect to the Project Improvements.

XIII
RESERVED

XIV

RESTRICTIONS

14.01 Developer agrees for itself, its successors and assigns, and every successor in interest to the Property, or any part thereof, that Developer and its successors and assigns shall:

(a) install the improvements which constitute the Project by August 31, 2021 and

(b) during the term of this agreement or December 31, 2024, whichever shall first occur, devote the Property to, and only to, the uses specified herein and uses allowed with the applicable zoning.

XV

AMENDMENT

15.01 This Agreement, and any exhibits attached hereto, may be amended only by the mutual consent of the parties by the adoption of an ordinance or resolution of the City approving said amendment, as provided by law, and by the execution of said amendment by the parties or their successors in interest.

XVI

NO OTHER AGREEMENTS

16.01 Except as otherwise expressly provided herein, this Agreement supersedes all prior agreement, negotiations and discussions relative to the subject matter hereof and is a full integration of the agreement of the parties.

XVII

CONSENT

17.01 Except as otherwise provided in this Agreement, whenever herein consent or approval of either party is required, such consent or approval shall not be unreasonably withheld.
XIIX

CONFLICT OF INTEREST:
CITY’S REPRESENTATIVES NOT INDIVIDUALLY LIABLE

18.01 No member, official or employee of the City shall have any personal interest, direct or indirect, in this Agreement; nor shall any member, official or employee participate in any decision relating to this Agreement which affects his personal interests or the interests of any corporation, partnership, or association in which he is directly or indirectly interested. No member, official, or employee of the City shall be personally liable to Developer or any successor in interest in the event of any default or breach by the City or for any amount which may become due to Developer or successor or on any obligation under the terms of this Agreement.

XIX

EQUAL EMPLOYMENT OPPORTUNITY

19.01 Developer, for itself and its successors, assigns, contractors, subcontractors, tenants and lessees, agrees that until the Occupancy Certificate for the Project is issued

(A) Developer shall not knowingly discriminate against any employee or applicant for employment related directly to Project Improvements because of race, religion, color, sex, age, mental or physical disability, national origin or ancestry, sexual orientation, marital status, parental status, military discharge status or source of income, and

(B) Developer shall include the provisions of Section 19.01(A), in every contract, and shall require the inclusion of these provisions in every subcontract entered into by any of its contractors, so that such provision will be binding upon each such contractor, or sub-contractor, tenant or subtenant as the case may be.

XX

MUTUAL ASSISTANCE

20.01 The Parties agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications, as may be necessary or appropriate to carry out the terms, provisions and intent of this agreement.
XXI

MISCELLANEOUS PROVISIONS

21.01 Remedies Cumulative. The remedies of a party hereunder are cumulative and the exercise of any one or more of the remedies provided for herein shall not be construed as a waiver of any of the other remedies of such party unless specifically so provided herein.

21.02 Disclaimer. Nothing contained in this Agreement nor any act of the City, shall be deemed or construed by any of the parties, or by third persons, to create any relationship of third-party beneficiary, or of joint venture, or of any association or relationship involving the City.

21.03 Notices. All notices, certificates, approvals, consents or other communications desired or required to be given hereunder shall be in writing and shall be sufficiently given on the date hand delivered or on the second day following the day on which the same shall have been mailed by registered or certified mail, postage and fees prepaid, return receipt requested addressed as follows:

If to city: Laura Newman  
City of Batavia  
100 North Island Avenue  
Batavia, IL 60510

With Copies to: Mr. Kevin Drendel  
111 Flinn Street  
Batavia, IL 60510

If to Developer: Michael Knuth  
Comedy Vault, LLC (Comedy Vault)  
18 E. Wilson St.  
Batavia, IL 60510

The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, approvals, consents or other communications shall be sent.

21.04 Paragraph Headings. The paragraph headings and references are for the convenience of the parties and are not intended to limit, vary, define or expand the terms and provisions contained in this Agreement and shall not be used to interpret or construe the terms and provisions of this Agreement.

21.05 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

21.07 Successors and Assignees. The terms and conditions of this Agreement shall constitute a covenant running with the land and be binding upon and inure to the benefit of the
parties hereto, their successors in interest, assignees, lessees, and upon any successor municipal authorities of the City and successor municipalities. Prior to the completion of the Project Improvements, and Certificate of Occupancy by City, as described in section V of this Agreement, Developer shall not assign its rights and obligations under this agreement to another party except with the express written consent of the City, which consent shall be given within 30 days of the written request of Developer, and shall not be unreasonably withheld and shall be based solely on the financial requirements of this Agreement for the completion of the Project Improvements. Except as otherwise expressly provided herein, upon the conveyance or assignment by Developer of its interest in the Property to any successor, assign, or nominee, Developer, as the case may be, shall be released from any and all further liability or responsibility under this Ordinance, and the City shall thereafter look only to the successor, assign, or nominee of Developer as the case may be, concerning the performance of such duties and obligations of Developer hereby undertaken.

21.08 Severability. If any provision of the Agreement, or any paragraph, sentence, clause, phrase or word, or the application thereof, in any circumstance, is held invalid, the remainder of the Agreement shall be construed as if such invalid part were never included herein and the Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

21.09 Joint and Several Liability. Developer, its successors or assigns hereby agrees to be directly, unconditionally and primarily liable to the City for the performance of Developer's obligations under the Agreement.

XXII

TERM OF THIS AGREEMENT

22.01 This Agreement shall terminate, and the Developer’s unaccrued obligations under this agreement shall cease upon the later of December 31, 2024, or upon the payment in full of any amount remaining due on the Note, provided however, this Agreement shall not terminate in any event until the obligations to make any payments on the Note or repayments required by this Agreement have not been fulfilled.
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on or as of the day and year first above written.

CITY Of BATAVIA

BY: _______________________________________
    Jeffery D. Schielke, Mayor

ATTEST: ___________________________________
         Ellen Posledni, City Clerk

DEVELOPER:

Comedy Vault, LLC (Comedy Vault)

BY: _______________________________________
    Michael Knuth, President

ATTEST: ___________________________________
Exhibit A

LEGAL DESCRIPTION 18 E. WILSON ST. BATAVIA, IL

LOTS 1 AND 2 (EXCEPT THAT PART OF LOT 2 DESCRIBED AS FOLLOWS OMMENCING AT THE NORTHWEST CORNER OF SAID LOT 2: THENCE EASTERLY ALONG THE NORTH LINE THEREOF, TO THE CENTER LINE OF A STONE WALL; THENCE SOUTHERLY ALONG THE CENTER LINE OF SAID WALL, TO THE SOUTH LINE OF SAID LOT 2: THENCE WESTERLY ALONG THE SOUTH LINE OF SAID LOT 2 TO THE SOUTHWEST CORNER THEREOF; THENCE NORTHERLY ALONG THE WEST LINE OF SAID LOT TO THE PLACE OF BEGINNING), AND THAT PART OF LOT 3 DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF LOT 2; THENCE EASTERLY ALONG THE SOUTHERLY LINE OF SAID LOT TO THE CENTER OF A STONE WALL FOR THE POINT OF BEGINNING; THENCE NORTHERLY ALONG THE CENTER OF SAID STONE WALL 28.50 FEET; THENCE WESTERLY PARALLEL WITH THE SOUTHERLY LINE OF SAID LOTS 2 AND 3, A DISTANCE OF 8.25 FEET; THENCE SOUTHERLY PARALLEL WITH THE CENTER OF SAID STONE WALL 5.00 FEET; THENCE WESTERLY PARALLEL WITH THE SOUTHERLY LINE OF LOTS 2 AND 3, A DISTANCE OF 5.50 FEET; THENCE SOUTHERLY PARALLEL WITH THE CENTER OF SAID STONE WALL 23.50 FEET TO THE SOUTHERLY LINE OF SAID LOT 3; THENCE EASTERLY ALONG THE SOUTHERLY LINE OF SAID LOTS 2 AND 3, A DISTANCE OF 13.75 FEET TO THE POINT OF BEGINNING; ALSO THE EAST 149 FEET OF LOT 7 AND THE NORTH 49.5 FEET OF THE EAST 149 FEET OF LOT 8 AND THE EAST 149 FEET OF THE EAST 149 FEET OF THE UNNUMBERED LOT, LYING NORTH OF AND ADJOINING SAID LOT 8, ALL IN M. M. LORD’S AND G. W. FOWLER’S DIVISION OF BLOCK 3 OF WILSON’S ADDITION TO BATAVIA LOCATED IN THE EAST FRACTION OF THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN KANE COUNTY, ILLINOIS.

ADDRESS OF PROPERTY

18 E. Wilson
Batavia, Illinois

P.I. N. 12-22-258-016
Exhibit B

UNITED STATES OF AMERICA
STATE OF ILLINOIS
CITY OF BATAVIA

REDEVELOPMENT NOTE
(Comedy Vault, LLC Redevelopment Note)

Comedy Vault, LLC acknowledges itself indebted and for value received hereby promises to pay, pursuant to the terms of the “Redevelopment Agreement” described below, to the order of the City of Batavia (City) a principal sum not to exceed $75,000.00 and computed hereinafter, together with interest thereon at an interest rate of 2% to be computed as described hereinafter, and payable as described herein. The principal sum of this note shall be equal to the sum of (a) all monies in excess of $25,000.00 paid by the City to Developer towards Project Costs as described in the Redevelopment Agreement, pursuant to Requests for Payment approved by the City pursuant to Section 8.03 of the Redevelopment Agreement referred to below, plus (b) the interest which has accrued on the sums in (a), as calculated hereinafter, such principal sum representing the City's contribution to Developer to construct certain private improvements pursuant to Paragraph 2.02 of the Redevelopment Agreement.

Payments upon this note shall be made on a monthly basis following the final payment by City of the sums payable to Developer under the provisions of Paragraph 8.02 of the Redevelopment Agreement and the terms set forth below.

Beginning on September 30, 2021, Developer will commence payment of the balance of the actual payments and said payments will continue, together with simple interest at the rate of 2% per annum, on the first day of each successive month for the following 39 months (for a total of 40 payments), until such total actual payments plus interest, is paid in full. The amount of each monthly payment will consist of 1/40th of the balance of the actual cost of construction plus interest (as set forth above), the exact amount of which shall be determined by the City and provided to Developer prior to the required commencement of the payments.

Both principal of and interest on this Note are payable in lawful money of the United States of America.

This Note is entitled to the protection and security given by the Redevelopment Agreement. Reference is hereby made to the Redevelopment Agreement and to all ordinances supplemental thereto with respect to the nature and extent of the security for this Note, the rights, duties and obligations of the Developer, and the terms upon which the Note is issued and secured.
IN WITNESS WHEREOF, Comedy Vault, LLC has caused this Note to be executed in its name and on its behalf by its President, Michael Knuth:

Dated: ____________________________

BY: ________________________________
    President, Comedy Vault, LLC

Attest: ______________________________