

CITY OF BATAVIA
MINUTES OF THE BATAVIA CITY COUNCIL
March 16, 2020, at 7:30 p.m. - City Council Chambers
100 N. Island Ave. Batavia, Illinois

PLEASE NOTE: These minutes are not a word-for-word transcription of the statements made at the meeting, nor intended to be a comprehensive review of all discussions. Minutes are intended to make an official record of the actions taken by the Committee/City Council, and to include some description of discussion points as understood by the minute-taker. Any references to discussion and /or statements are only to provide greater clarity to the public and they may not reference all, some, or any of an individual speaker's comments.

1. MEETING CALLED TO ORDER

The meeting was called to order by Mayor Schielke at 7:30 p.m.

2. INVOCATION followed by PLEDGE OF ALLEGIANCE

Mayor Schielke offered a brief invocation. Ald. Callahan led the Pledge of Allegiance.

3. ROLL CALL

14 of 14 aldermen were present.

Aldermen (by ward): Jennifer Baerren (1), Michael O'Brien (1), Alan Wolff (2), Martin Callahan (2), Dan Chanzit (3), Elliot Meitzler (3), Joseph Knopp (4), Anthony Malay (4), Mark Uher (5), Abby Beck (5), Michael Russotto (6), Nicholas Cerone (6), Keenan Miller (7) and Drew McFadden (7) were present.

Also present were BATV and members of the press, public and the following:

Mayor	Jeffrey Schielke
City Administrator	Laura Newman
Recording Secretary	Jennifer Smith
Fire Chief	Randy Deicke
City Attorney	Roman Seckel
Community Development Director	Scott Buening
Director of Public Works	Gary Holm
Director of Human Resources	Wendy Bednarek
Building Commissioner	Jeffery Albertson

4. REMINDER: Please speak into the microphone for BATV recording

5. ITEMS REMOVED/ADDED/CHANGED

None.

6. CONSENT AGENDA

Ald. Chanzit read the Consent Agenda as follows:

Accept and Place on File:

- A. Committee of the Whole Minutes February 11, 2020 and February 18, 2020
- B. Plan Commission Minutes for January 15, 2020

Approvals:

- C. March 6, 2020 Payroll \$897,057.92
- D. Accounts Payable Check Register \$1,288,070.57
- E. **RESOLUTION 20-041-R:** Authorizing Execution of Contract with SewerTech, LLC, Schaumburg, IL to perform Sanitary Sewer Collection System Cleaning and CCTV investigations for an amount not to exceed \$37,392.03 (which includes 10% contingency) (JB 2/24/2020 COW 0/03/2020 11/0) PU
- F. **RESOLUTION 20-039-R:** Approval of the 2020 Zoning Map (SCB 2/20/2020 COW 3/10/2020 12/0)
- G. **ORDINANCE 20-23:** Rescinding Ordinance 19-80 Proposing Special Service Area 42 for the Nagel Industrial Park PUD/Farmstead III Development (SCB 3/4/2020 COW 3/10/2020 12/0) CD
- H. **RESOLUTION 20-044-R:** Authorizing Execution of a Contract with Denler, Inc. for the 2020 Crack Filling and Parking Lot Maintenance Program (TFG 3/4/2020 COW 3/10/2020 12/0) CS
- I. **RESOLUTION 20-045-R:** Authorizing Execution of a Contract with Strada Construction Co. for the 2020 Sidewalk and Curb Replacement Program (CCB 3/4/2020 COW 3/10/2020 12/0) CS

Motion by Ald. Chanzit, seconded by Ald. Knopp, to approve the Consent Agenda as presented. Motion carried 14 yea/ 0 nay/ 0 absent.

7. MATTERS FROM THE PUBLIC: (For Items NOT on the Agenda)

None.

8. PRESENTATION: From Batavia with Love for CASA – Mary Marconi Popeil
There was no presentation made at this meeting. Mary Marconi Popeil was not in attendance.

9. PROCLAMATION: City of Batavia Employee Recognition Week
Ald. Chanzit read the proclamation.

Motion by Ald. Chanzit, seconded by Ald. Knopp, to approve the proclamation as presented. Motion carried 14 yea/ 0 nay/ 0 absent.

10. MAINSTREET

Sherri Wilcox, MainStreet Executive Director, addressed the Council. She discussed the progress with the boardwalk shops and shared that the applicants/tenants have been chosen for the boardwalk shops this summer. Wilcox announced that Restaurant Madness event would not happen this year. A restaurant directory was made with the partnership between the Chamber of Commerce, MainStreet, the City and Alderman Callahan. The directory is of all of Batavia restaurants and what they are offering during this time: carryout, delivery, curbside pick-up, drive-though and hours. It is a live directory on Google and can be easily updated as things

change. This directory has been posted on social media. Wilcox stated that they are in consultation with downtown merchants and what they are offering at this time. For now, the April 11th Egg Hop is still scheduled. We will wait to see how things change over the next couple of weeks as to whether or not this event will continue or be cancelled. We will have a better idea on whether or not this event will happen by April 1st. The Farmer's Market will host eight vendors who take pre-orders online and those orders would be filled similar to carryout at a restaurant. MainStreet will promote this carryout option for the Indoor Farmer's Market.

11. RESOLUTION 20-043-R: Authorizing Extension of the City of Batavia Washington Wilson Tax Increment Finance District (LN 2/28/2020 COW 3/03/2020 9/4) CD
Ald. Callahan summarized the memo. Newman discussed how extending the TIF would be the most beneficial option for the City in three regards: 1) maximizing the potential for the bonds to be paid off within the TIF term and without having to implement a substantial SSA, 2) provide the opportunity for the City to recoup some of the costs that it has put into the project such as property acquisition, utility improvement surrounding the project, and environmental remediation. Without the extension it is not likely there is enough increment to cover those costs. 3) provide time to find an alternate project just in case this project would not ultimately be built. Newman stated that there are certain off ramps that still exist here such as the developer's inability to secure financing for the construction of the project and/or the construction bids come back substantially higher than what was originally estimated making the project financially not feasible. If Council approves the extension then staff will coordinate with the other taxing bodies with the hope for construction in the Fall of 2020.

Zoran Milutinovic from Kane, McKenna & Associates, Inc., addressed the Council to explain their analysis and conclusions of this project. He expressed his support of extension of the TIF. He stated even if the Council moves forward with requesting this extension it does not necessarily bind this Council tonight to move forward with this developer or even finally approve the extension of the TIF term. There is going to be more negotiations if there are amendments to the redevelopment agreement with the developer that would come before the Council again. Even if the legislature approves the extension of the TIF Act, we would still have to come back to the Council to request an amendment to the redevelopment plan providing for the extension of the additional years. Tonight, this is an opportunity to provide some flexibility to the Council as far as moving forward with this project or any future project.

The Council discussed legislature, the rate of return and how that is calculated for development, benefits of extending the TIF, and bank financing.

David Patzelt, Shodeen, addressed the Council. Patzelt stated that he is fairly certain that without a TIF extension we won't get a traditional bank to finance this project. If the City would like to continue on with this project we need the financing to do it and in order to obtain that we would need the bank to finance it. Patzelt stated that at the Committee of the Whole (COW) meeting he made a commitment to try to bring the retail back to the development. Patzelt distributed copies of a draft redesign of the proposed building titled 'One Washington Place Alternate Garage Concept, Shodeen Inc., Developer'. He overviewed the redesign with the Council and noted that this is a work in progress. This 2020 plan has the highest amount of retail square footage than the past plans but the sacrifice would be some of the parking. The parking would be 332 parking

spaces down from 351 parking spaces. Uher asked about any change in apartment totals. Patzelt answered the apartment unit count would come down four as well. Meitzler commented that retail was considered a financial drag to this project and asked why is it now okay. Patzelt stated that he does not know if he is okay with that but there seems to be a request from the partners sitting at the dais here to bring the retail back. The question is can we afford to build the retail space and what rental rate would be able to get for that retail space. Financially that could still be a drag on that project. Also, would we have to have some incentive to get a tenant into that retail space. Meitzler stated that we have had a meeting in the past regarding how this project would not be economically viable. Meitzler questioned what is going to prevent us from having the very same meeting six months from now discussing why again this is no longer economically viable. Patzelt stated that presenting this plan may be premature but in the essence of time he is trying to meet the request of his partner, the Council, asking to put retail back into the project.

Callahan asked if this could be continued to the April 3rd meeting since there has been more information presented and to be considered by the Council and the public. Newman stated that the other taxing bodies have prepared resolutions and letters for approval coming before their boards before the next City meeting happens. It might be persuasive to them in a negative way that the City of Batavia has not yet decided on its own resolution to extend the TIF. She continued that the internal rate of return analysis is a four to six week analysis. Milutinovic added that we still have to go through the legislation process in Springfield. Any legislation has to pass the simple majority and after May 31st you need 2/3 vote after that. It is much more difficult at that point to have legislation to agree on any legislation. The May 31st date is a critical date. He continued that they could fast track the internal rate of return but we do need to keep in mind the May 31st date. Newman stated that extending the TIF provides the City with maximum flexibility but it doesn't mean the City has to agree with the amended RDA. Very quickly after approving this resolution we will be looking at what changes we intend to make with the RDA. That would be a more appropriate time to engage in the analysis of the new development plan.

Uher expressed his concern with how many years the TIF would be extended. Newman stated that the Council could add to the intergovernmental agreement to end the TIF once the costs have been paid. Wolff stated that he agrees with ending the TIF the moment the City has recouped its costs. The Council discussed the bonds, streetscape, and marketability of the land. Malay stated that he feels really rushed and he does want to revitalize the downtown. After all this time has passed the fact that we have to do something right now seems rushed. He would like something put in place that when everything is paid off the TIF is done. O'Brien agreed with Wolff and continued that he is in support of extending the TIF. Once the City has been made whole we should sunset the TIF. McFadden stated extending the TIF is as much about protecting the City and setting us up for the long term, whatever what may come. Having this TIF in place would allow us to do the most good with the TIF. Russotto suggested setting up a timeline for negotiating the RDA with the developer. Newman noted that if this developer walks away the amount of time left on the TIF is something of value to attract a different developer to develop the largest project that they could possibly can with the maximum value. It is enough to add to the motion a sunset that once the bonds are paid off and our bonds are recouped that would be the time period in which the TIF ends.

Alderman Chanzit made a motion on the resolution with added language as follows:

Authorizing Extension of the City of Batavia Washington Wilson Tax Increment Finance District with the understanding that staff will be working with the other taxing bodies to explain that in the intergovernmental agreement we are seeking a sunset and we are looking forward to a parallel negotiation of the RDA, which we will discuss at the Committee

Motion by Ald. Chanzit, seconded by Ald. O'Brien, to approve the resolution as stated by Ald. Chanzit. Motion carried 9 yea/ 5 nay/ 0 absent.

Aldermen Knopp, Callahan, Meitzler, Malay and Uher were the nay votes.

12. RESOLUTION 20-042-R: Authorizing Execution of Task order #19 with Engineering Enterprises for Professional Services related to an AWIA Mandated Waterworks System Risk and Resilience Assessment & Emergency Response Plan for a fixed fee of \$70,047.00 (JB 2/24/2020 COW 3/03/2020 11/0) PU

Motion by Ald. O'Brien, seconded by Ald. Meitzler, to approve the resolution as presented. Motion carried 14 yea/ 0 nay/ 0 absent.

13. RESOLUTION 20-46-R: Approving change order #1 for MP Systems in the amount of \$40,023.95 to complete Substation Construction Services for the Northeast Distribution Substation (RB 3/5/2020 COW 3/10/2020 12/1) PU

Callahan explained that his past nay vote was due to the issue Alderman O'Brien brought up that the contract was not to exceed a certain amount. The contract had over two-hundred hours in excess and it was not caught. Now the City is spending \$40,023.95 because there was no project questioning as it went along. We did have a not-to-exceed contract and the party did not notify City staff of this overage. Callahan stated that he is concerned with putting out not-to-exceed contracts but it could be exceeded. O'Brien stated that he appreciates Alderman Callahan's points that this was a not-to-exceed number. There was a change order for de-watering the site for 240 hours. The City Engineer reported this information to the COW and shared that originally it was for 480 hours and they discussed this with the contractor and the hours were reduced to 240. O'Brien stated being in construction that is a red flag. He recommended that in future contracts to have allowances and if they are to far exceed the allowance to bring it to someone's attention so that it could be addressed at that time. Meitzler stated that this is a change order and it is not assumed that we would approve it. This is \$40,000. Bad project management is not automatically compensated in his line of work. Change requests come in beforehand and there are project check points along the way to make sure you are not running over budget. Meitzler announced that his vote would be a 'no' on this one. Change orders are not a given. O'Brien commented that someone had to approve the de-watering but the hours not so much.

Holm stated that this is not a professional services contract. This is a construction contract. Although it is termed not-to-exceed maybe it is not good verbiage. When we work contracts on the construction side the not-to-exceed item has openings should unforeseen circumstances should arise. The dewatering cost all depends on the weather conditions going into contract. Chanzit asked if the City should be paying this amount. Holm responded yes. This is a reasonable end to the negotiation. O'Brien stated that in his opinion the hours charged were high. However, he will vote to approve this because we have a contract with this contractor and they

submitted the bill and someone approved that bill and we have to honor that. It is on us to look at these numbers and to question them if there is something questionable.

Motion by Ald. O'Brien, seconded by Ald. Chanzit, to approve the resolution as stated by Ald. Chanzit. Motion carried 12 yea/ 2 nay/ 0 absent.

The nay votes were Aldermen Callahan and Meitzler.

14. ADMINISTRATOR'S REPORT

Newman stated that she has been keeping up with the ever-changing updates regarding COVID-19. The health and safety of our residents are of utmost importance. A Corona Virus page has been put up on the City's website. New guidelines have been issued by the CDC and the State Governor. Due to the new guidelines, we have placed limitations on public access to our facilities at City Hall and Public Works. We will continue to provide a high level of service to all of our citizens. The Illinois Gaming Board has announced the suspension of all video gaming operations at all licensed video gaming establishments effective at 9pm on Monday 3/16 through Monday 3/30. All public and private events of fifty or more people will be cancelled through the end of April. The new public gathering restrictions begin 3/18. Today, there was new guidance from the White House and the Center for Disease Control that gatherings be limited to no more than ten people. The Governor gave an order, which suspends the requirements of the Open Meetings Act requiring in-person attendance by members of a public body. The Governor has encouraged the public bodies postpone public business when possible and allow for a process for video, audio or telephonic access for members of the public when meeting is necessary. Newman asked whether City Council would like to consider suspension of our public meetings unless there is business that is absolutely necessary. This would include meetings of our boards and commissions. Newman asked that City Council consider suspension of its own COW and City Council meetings.

Mayor Schielke stated that he is not in favor of suspension of meetings because we have too much important business for the future of this town. We have to get together and have conversation with some regularity whether in person or virtually. Not meeting for three or four weeks is not good government and does represent the people and is contrary to what the American Constitution is all about. The consensus of the Council was to lead by example and continue all COW and Council meetings virtually. The board and commission meetings were cancelled for the remainder of March. The COW and Council meetings were reduced to four meetings per month (2 COW and 2 Council). The Council and COW would virtually meet on alternating weeks in April.

Mayor Schielke announced that Batavia is being considered for a future COVID-19 testing site at the Batavia Wal-Mart parking lot. There are a lot of moving parts for this customer service and Mayor Schielke will be meeting with the Wal-Mart executives tomorrow.

15. COMMITTEE REPORTS

There were no committee reports at this time.

16. OTHER BUSINESS

Alderman Miller stated that there is a constituent that questioned why elections could not be postponed. Mayor Schielke stated that the City does not oversee elections and that postponing elections is unconstitutional. Alderman Chanzit noted that there were options for early voting.

17. MAYOR'S REPORT

Mayor Schielke said that COVID-19 and the mandated closures of restaurants and bars have had a big impact on local businesses. MainStreet and Chamber of Commerce put together a document on local businesses and what they could offer. Mayor Schielke encouraged everyone to support the local businesses during this time. Sherri Wilcox, MainStreet Executive Director, stated that if you typically go out on a Friday night to order carry out or delivery to enjoy instead. She noted that businesses have worked very hard creating special menus for this time. Any way you could support local businesses is greatly appreciated. Gift certificates are another way to support local businesses.

Mayor Schielke announced that the Batavia Interfaith Food Pantry is in need of monetary donations. Monetary donations could be given directly on the website at Bataviafoodpantry.org. The monetary donations would allow the food pantry to purchase what we need from the Northern Illinois Food Bank and local grocery stores. Volunteers are needed to fill client orders. The website provides more information on times. Community donations of canned goods, shelf stable foods, and household products could be donated to the pantry Tuesdays through Fridays from 8am to noon. Carts would be outside for people to place their donations in. Some of the current needs are:

- Monetary donations
- Ready to eat soup
- Boxed pasta
- Garbage bags
- Diapers (sizes 3-6)

Alderman Wolff suggested that the payment the Aldermen would have received for the Emergency Meeting (immediately following this meeting) be donated to the Interfaith Food Pantry. A motion was made to forego the money that would have been paid to the Council for the emergency meeting tonight to be donated directly to the Interfaith Food pantry rather than issue checks.

Motion by Ald. Wolff, seconded by Ald. Chanzit, to approve the resolution as stated by Ald. Wolff. Motion carried 14 yea/ 0 nay/ 0 absent.

18. ADJOURNMENT

Motion to adjourn by Ald. Wolff, seconded by Ald. Uher. Motion carried by voice vote.
The City Council meeting adjourned at 10:21 p.m.

Minutes prepared and submitted by Jennifer Austin-Smith, Recording Secretary, April 1, 2020.