

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

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

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

1. Roll Call

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

Members Absent: Ald. Chanzit, Fischer, and McFadden

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

2. Items to be Removed/Added/Changed

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

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

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

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

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

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

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

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

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

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

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

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

O'Brien was the nay vote.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10. Project Status

McGrath reported on the following:

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

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

11. Other

There were no others at this time.

12. Closed Session

a. Personnel

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

Maker: O'Brien

Second: Callahan

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

Closed Session began at 9:51pm.

13. Adjournment

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

Minutes respectfully submitted by Jennifer Austin-Smith