

MINUTES
April 13, 2021
Committee of the Whole – Hybrid Meeting
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 Wolff called the meeting to order at 7:00pm.

1. Roll Call

Members Present: Chair Wolff; Ald. Miller, Russotto, Knopp (online), Chanzit (online); Baerren, O'Brien, Callahan (online), Malay (online), Meitzler (online), Cerone (online) and McFadden (online- joined at 7:07pm)

Members Absent: Ald. Beck and Uher

Also Present: Mayor Schielke; Laura Newman, City Administrator; Gary Holm, Director of Public Works; Scott Buening, Director of Community Development (online); Anthony Isom, Assistant to the City Administrator (online); Peggy Colby, Director of Finance (online); Jeff Albertson, Building Commissioner (online); and Jennifer Austin-Smith, Recording Secretary (online)

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

3. Approve Minutes for February 23, 2021

Motion: To approve the minutes for February 23, 2021

Maker: Russotto

Second: Miller

Roll Call Vote: **Aye:** Russotto, Knopp, Chanzit, Baerren, Wolff O'Brien, Callahan, Meitzler, Malay, Cerone, Miller

Nay:

11-0 Vote, 3 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. Consent Agenda

a. Approval: COW Executive Session Minutes February 16, 2021

Motion: To approve the Consent Agenda as presented

Maker: Chanzit
Second: Knopp
Roll Call Vote: **Aye:** Chanzit, Baerren, Wolff O'Brien, Callahan, Meitzler, Malay, Cerone, Miller, Russotto, Knopp
Nay:
11-0 Vote, 3 Absent. Motion carried.

Alderman McFadden entered the meeting at 7:07pm.

7. Ordinance 21-24: Amending the Text of the Zoning Code (City Code Title 10) Relating to Signs in the DMU Downtown Mixed Use District, City of Batavia Applicant (JLS 4/7/21)

Strassman reported the Zoning Code's requirement of wall signs being adjacent to the lease space leaves some downtown lease spaces without opportunity for wall signage facing a street. Also, the Code's limit for projecting signs to generally one per building may overly restrict multi-tenant buildings. To provide greater opportunity for affected tenants, staff has proposed adding sign opportunities through approval of Ordinance 21-24. As drafted, Ordinance 21-24 can allow tenants not having adjacency to exterior walls one wall sign facing a street of up to 24 square feet. Projecting signs would increase from allowing an installation of every 50 feet of frontage to every 25 feet, up to 3 per building. Additionally, up to 2 signs may be displayed per projecting sign installation, meeting minimum clearance requirements, where only 1 is allowed now. All signs would require either COA or Administrative Design Review approval, as is required now.

Strassman continued the Plan Commission reviewed this proposal at a public hearing on March 17, at which no member of the public spoke on the proposal. The Commission noted the proposal expands signage opportunity that can benefit tenants. Required COA and design review approval can ensure compatibility of the sign with its surroundings. By a vote of 6-0 with 1 seat vacant, the Commission recommended approval of amendments to the text of the Zoning Code for signs in the DMU District as presented. Staff anticipates no negative impacts to the proposed expansion of sign opportunity in the downtown. Consistent with the Commission's recommendation, staff recommends approval of Ordinance 21-24 as presented.

Motion: To recommend approval of Ordinance 21-24: Amending the Text of the Zoning Code (City Code Title 10) Relating to Signs in the DMU Downtown Mixed Use District, City of Batavia Applicant

Maker: Callahan

Second: Knopp

Roll Call Vote: **Aye:** Callahan, Meitzler, Malay, Cerone, McFadden, Miller, Russotto, Knopp, Chanzit, Baerren, Wolff, O'Brien

Nay:

12-0 Vote, 2 Absent. Motion carried.

CONSENT AGENDA

8. Ordinance 21:25: Amending the Text of the Zoning Code (City Code Title 10) City of Batavia Applicant (DMR 4/8/21)

Rackow overviewed the memo with the Committee.

Motion: To recommend approval of Ordinance 21:25: Amending the Text of the Zoning Code (City Code Title 10) City of Batavia Applicant

Maker: Callahan

Second: Knopp

Roll Call Vote: **Aye:** Callahan, Meitzler, Malay, Cerone, McFadden, Miller, Russotto, Knopp, Chanzit, Baerren, Wolff, O'Brien

Nay:

12-0 Vote, 2 Absent. Motion carried.

CONSENT AGENDA

9. Resolution 21-030-R: Authorizing Execution of a Contract with Performance Construction for the 2021 Ward 1 Storm Sewer Reconstruction (TG 4/6/2021) CS

Holm overviewed the memo with the Committee. O'Brien stated that the great storms of 2015 warranted this work causing flooding like we have not seen before in the first ward. He warned the future councils to keep an eye on storm water conveyance. O'Brien stated he has always been a proponent for stormwater utility. It is important for our City to consistently monitor these storms and the conveyance of this water. The hundred year flood seems to be coming every year. This is only going to get worse and we are not really addressing it throughout our City. O'Brien would recommend looking into a stormwater utility to control our costs better and control flooding.

Motion: To recommend approval of Resolution 21-030-R: Authorizing Execution of a Contract with Performance Construction for the 2021 Ward 1 Storm Sewer Reconstruction

Maker: O'Brien

Second: Russotto

Roll Call Vote: **Aye:** O'Brien, Callahan, Meitzler, Malay, Cerone, McFadden, Miller, Russotto, Knopp, Chanzit, Baerren, Wolff

Nay:

12-0 Vote, 2 Absent. Motion carried.

10. Waive Formal Bidding for Purchase of a 2021 Avant 760i Tractor and Attachments

This is an action for City Council.

11. Resolution 21-032-R: Authorization to Purchase a 2021 Avant 760i Tractor with Multiple Attachments from Alta Equipment Company for \$95,647.92 (SH 4/8/21)

Motion: To recommend approval of Resolution 21-032-R: Authorization to Purchase a 2021 Avant 760i Tractor with Multiple Attachments from Alta Equipment Company for \$95,647.92

Maker: Wolff

Second: O'Brien

Roll Call Vote: **Aye:** Wolff, O'Brien, Callahan, Meitzler, Malay, Cerone, McFadden, Miller, Russotto, Knopp, Chanzit, Baerren
Nay:
12-0 Vote, 2 Absent. Motion carried.

12. Resolution 21-031-R: Authorizing Execution of a Renewal Agreement with the Association for Individual Development (AID) for the Ride in Kane Program (LN 4/1/21) GS

Motion: To recommend approval of Resolution 21-031-R: Authorizing Execution of a Renewal Agreement with the Association for Individual Development (AID) for the Ride in Kane Program

Maker: Chanzit

Second: O'Brien

Roll Call Vote: **Aye:** Chanzit, Baerren, Wolff, O'Brien, Callahan, Meitzler, Malay, Cerone, McFadden, Miller, Russotto, Knopp
Nay:
12-0 Vote, 2 Absent. Motion carried.

13. Resolution 21-033-R: Authorizing Execution of an Access Agreement between Fifth Third Bank, National Association, 1 N. Washington, L.L.C. and the City of Batavia Illinois

Chanzit summarized the memo with the Committee. Newman reported the City hired specialized counsel to assist us with this project to oversee the City's interests in this document. This document was negotiated over the course of eight weeks. Miller asked if this changes the financial liability of the City. Newman answered no, she was concerned with the timing because once we issue the bonds we want to make sure the increment is going to be there to pay the bond debt. The main negotiations were about the time that it would take for the bank to undertake utilizing the surety bond to complete the project. The Committee discussed backstops, gap payments, and the access agreement.

Motion: To recommend approval of Resolution 21-033-R: Authorizing Execution of an Access Agreement between Fifth Third Bank, National Association, 1 N. Washington, L.L.C. and the City of Batavia Illinois

Maker: O'Brien

Second: McFadden

Roll Call Vote: **Aye:** Chanzit, Baerren, Wolff, O'Brien, Cerone, McFadden, Russotto
Nay: Miller, Knopp, Callahan, Meitzler, Malay
7-5 Vote, 2 Absent. Motion carried.

14. Discussion: Illinois Energy Legislation

The Committee opened the floor for public comment. Rev. Scott Hull addressed the Committee virtually. He shared that he is speaking to the Committee tonight as a resident, parent and local faith leader. He is asking the Committee to support Clean Energy Jobs Act (CEJA) and support closing the Prairie State Coal Plant. Years ago when the City was facing rising energy costs they

bet on Prairie State. With what they knew then, they made the best guess they could with the information they had. They couldn't know that energy costs would change. They couldn't know that Prairie State was a bad bet. It is pretty clear that we know better now. Coal is not the future. We also know Prairie State is putting out an enormous amount of pollution right now. People are getting sick and people are dying. We understand that we will have to pay more. Talking to the average resident, he personally could be paying an additional one-hundred dollars a year if we went ahead, and extra hundred dollars to move our nation forward and move our community toward a cleaner future. A hundred dollars to save the lives of fifty Illinois citizens every year who would likely die due to pollution, pollution we could avoid, pollution tied to Prairie State. One hundred dollars, that sounds like a good investment to him, the moral investment.

Joani Foster virtually addressed the Committee. She shared that she is very passionate about closing the plant and she would do everything that she can to help close that plant and she hopes the Committee will help her too.

Terri Hoehne virtually addressed the Committee and shared that she strongly supports CEJA and coal is not the future. Prairie State is a polluter and CEJA gives us a path forward and a way out of a very bad deal. It may have looked good back when we got into it but it was not a good deal and we know that now. This will put us on a much better path to respond appropriately to climate change doing what we can to provide sustainable energy to our residents here in town.

Tom Lichtenheld virtually addressed the Committee. He stated this looked good when it started but it turned out to be a financial failure and on top of that it is environmentally way out of step with where we need to go in terms of climate change. This is an opportunity for Batavia to have an impact on an important global issue. The impact of climate change comes down to practical issues such as the new phenomenon of weather change. He advocates for anything that could be done to close the coal plant.

Brenna Flaughter virtually addressed the Committee. She stated she supports the Clean Energy Jobs Act and encourages the closing of the Prairie State Plant.

Regina Gomez virtually addressed the Committee. She shared that she has been a practicing physician for twenty-six years and is a medical director focused on safety and quality. She is part of a medical consortium that represents six hundred thousand clinicians with the concerns she is going to share this evening. The Building Resilience Against Climate Effects (BRACE) Illinois CDC's sponsored study for our state has determined these extreme precipitation events to be increased since the 1990's. It is something that is affecting our state. As we look forward, the prevention of causes of illness and injury usually costs less and has better outcomes. Any investments that we make in our health are easily undone if our air is not clean or our food is not healthy or if our water is not clean enough to drink. A power plant such as Prairie State damages our health because of the pollution and other dangerous pollutants. The BRACE study showed mental health is specifically associated with flood events. From a physician standpoint, this is real and it is happening today to citizens of Batavia and all around Illinois. One of the most difficult situations she deals with at the hospital is the prevention of a pre-term birth. We know today that air pollution and ambient heat is specifically associated with pre-term births in the United States and in our state. This is just one example of the price that we pay for decisions to

allow pollution to continue. There is an opportunity here to help reduce our air pollution and to prevent illness and we could be part of that solution for a just transition to safe and clean energy so that every breath we take is a healthy one.

Anne Heavy virtually addressed the Committee. She stated that she feels strongly in support of the CEJA and wanted to add her voice to her fellow Batavia citizens.

Jake Girmscheid virtually addressed the Committee. He specifically supports this bill and the general movement towards clean energy and jobs in the United States. A show of support from the City on this specific bill provides a unique opportunity to right the political blunder that was the original deal with Prairie State but also allows Batavia to be a leader not only in Illinois but the United States on clean energy.

Susan Russo virtually addressed the Committee and expressed her support of CEJA and encouraged the City Council to back it for passage by the Illinois legislature. She stated that she sent a letter to the Committee this week and in that letter she expressed her concern of the cost of pollution to Batavia. She knows that the City has struggled in the past to get out of the contract with Prairie State. She sees CEJA as a potential golden ticket for Batavia. It will not be cost free. The City could try to see if some accommodations could be made by the state to alleviate or assure Batavia for its particular and unique situation in its relationship with Prairie State. It is important for us to get away from this contract and do it for the citizens of Batavia as well as Illinois and our country. She referenced the 2014 Comprehensive Plan and 2018 Greener Region Compact as evidence of Batavia's commitment to do things in an environmentally friendly manner and recognition of climate change. Supporting CEJA is the City of Batavia's opportunity to put our money where our mouth is. She asked that the City supports CEJA as we move forward into a future that will hopefully be brighter for all of us and especially for our children to great, great grandchildren.

O'Brien stated that he appreciates everyone's comments. O'Brien stated that everyone here supports clean air and clean energy. There is no one here that has expressed they want dirty air. There is no moral high ground for anyone, we are all on equal footing that we all want clean air but there are different ways of getting to that and that is what we will be discussing. Batavia is in a tough position with Prairie State. The City was told by many leaders in the industry that this was the thing to do. We paid good money for expert advice and we followed that advice and then with fracking the cost of gas plummeted, as did the cost of electricity. The City got caught in between the economic downturn at the time and the drop of electricity. It is an unfortunate situation and in hindsight it was a mistake. It is hard to fault the people who were before this Council who made that decision. If there is anything that we have learned is diversity is key to energy supplies. We need to diversify.

Bill Scown, representative of CEJA, virtually addressed the Committee. He stated that he believes that we are relatively on the same page in terms of cost and hopes that we all understand that Prairie State is not a clean plant. Perhaps it is cleaner than some of the old coal plants but it is still the largest emitter of pollution in the state of Illinois. Batavia is trapped with long-term ownership fixed costs and long-term fixed price deals with major customers that present a significant barrier. We need to talk about the cost of the transition and not just leave it there but

talk about what is gained and the benefits with making this transition now when the State is facilitating it. There may not be another opportunity like this in the future, the future may be very dire for coal fire generation as we look at additional carbon taxes and closures that may be mandated at the federal level in order to meet new energy legislation.

Newman reported that our Finance Director did an analysis of what the impact would be to both our industrial ratepayers and our residential rate payers. It is basically a 16% increase for CEJA alone. We also have the need to save for capital expenditures for necessary maintenance for the utility as well and we have not made any increase in our electric rates for six years. We have kept our rates steady for six years. Between the need for a regular rate increase and what CEJA would put on us we are looking at an increase across the board of 20%. This would be so significant to households that it may become a determinate on whether or not they are able to live here. It would also be a determinate to current businesses whether they could stay here and new businesses whether they want to locate here or not, which would throw the financial sustainability of our City, not just our electric utility, into turmoil.

Colby stated that we do have a fixed contract with our largest user, which represents a large share of our kilowatt hours sold. In addition, our top eight customers represent a very large share of kilowatt hours sold. The document that she sent City Council was that she would recommend a 6% increase for those eight customers and 16% for all other businesses and residential to come up with the five million for the CEJA transition. Colby noted that she wasn't involved in the issuance of the debt but our debt is structured in such a way that it cannot be refunded, it has a make hold provision and we obligated. We did refund the debt we could but there is a large portion of debt that cannot be refunded and we are obligated with that debt until it expires in 2042. We will be paying that debt regardless of whether the plant is open or closed. Colby continued is the sticking point is the transition period of five million a year. We could never save that with the closing of the plant and all of our ratepayers would have to bear that cost.

Scown responded the question is what is affordable to get to clean energy and get rid of pollution and health risks. Five million dollars a year is a significant price. What we would like to do is perhaps mitigate that where the bill could be paid. Holm added that the five million dollars a year does not end when Prairie State closes. The City received 55 megawatts of capacity resources from Prairie State and then we would have to go on the market to purchase those capacity resources and they are in the same neighborhood of cost. They are not of a small magnitude. We may stop paying the coal severance fee and community reinvestment fee but now we have to go out and buy 55 megawatts of capacity, which has been given as part of our ownership of Prairie State. We cannot assume that by 2030 all of these large fees are going away because we would have a new set of fees we would have to pay. O'Brien added that the fear is we jumped in with both feet for coal in 2005-2008 and now we are being asked again to jump in with both feet with wind and solar energy. What you are telling us is mostly just projections and it is not hard facts yet.

The Committee discussed Prairie State costs, five million dollars in fees and paying for additional energy, asking for relief from the State of Illinois for the transition costs, the lack of base load generation of wind and solar power and how the City would not make it through another polar vortex without base load power/energy storage, importing power fossil fuel power

from other states, capacity, changing the infrastructure first before changing power, how do we get clean jobs for our state when we would likely have to get power somewhere else, renewable energy around the Country, supporting clean energy and how the City should proceed.

The general consensus of the Committee was to meet once again to discuss this topic and review the draft CEJA Talking Points that Gary Holm had sent out to the COW. Newman noted that State Representatives and Senators should also be made aware of this discussion and what would be decided upon. At the next meeting the COW would list concerns, suggestions and how to fix such concerns to bring to representatives of CEJA.

Alderman Meitzler left the meeting at 7:55pm.

15. Project Status

Newman reported on the following:

- The April 20th COW meeting will be a joint meeting with the Park Board at 6pm to discuss the Batavia Fox River Corridor master plan with the consultant. Our regular COW meeting at 7pm would follow the meeting.
- We have begun interviewing candidates for the Economic Development Manager position.
- We are reviewing the plans for the Winding Creek project on McKee Street.
- Plan Commission approved Design Review for a building expansion for the Bar One facility on Pearson Drive.
- The HPC is considering a Certificate of Appropriateness for demolition of a home on 14 North Washington Avenue and that would need to come to City Council for approval.
- The City is providing utilities and police support at the former Sam's Club for the mass vaccination hub. The Kane County State's Attorney's office sent us an intergovernmental agreement for providing those services and that would be the basis for us being able to apply to FEMA for public assistance to get reimbursed 100% of the costs of providing those utilities and services. She asked the COW if she could bring the intergovernmental agreement directly to City Council on Monday. There was no objection from the Committee.
- The storm sewer work at the west end of the Main Street project near VanNortwick is near completion. The next phase of the work would include new storm sewers on Batavia Avenue south of Main Street.
- Staff met with Fermi Lab to discuss their plans for improvements to their sanitary sewers.
- Staff also met with our engineering consultants to get the status update on the Carriage Crest drainage project and more data is expected to be collected this spring.
- Information systems has been collaborating with the Police Department in setting up the body worn camera system and policy development is in its final stages. The Police Department hopes to begin fielding the cameras during the first week of May.
- The Command Staff is currently working with the Batavia Board of Fire and Police Commissioners to develop protocols for establishing a secondary list of eligible certified candidates to augment the current half way for becoming a sworn member of the Batavia Police Department.
- We have a new HR Administrative Assistant, Darlene Wyans, who started April 5th.

16. Other

Malay shared that the owner of Wilson Street Tavern is interested in a trailer to sell alcohol on River Street. Newman answered that the owner could get a class G liquor license for events but the City wouldn't allow for a regular service of alcohol with weekly hours in that area.

Callahan shared a concern of alderman elect Leah Leman. There is an issue on the north side of the street on Main Street at about Evergreen, the 900 block, there are ditches in that area that floods with water and become really nasty and odorous. That area is not due for reconstruction for a permanent basis until 2024. Some of the water damage is starting to erode a resident's driveway along with a lot of nasty, filthy garbage. Callahan asked if another alderman would stand with him asking staff look at a cost beneficial temporary solution. Buening noted that most of the property is unincorporated. Holm referenced his email that he crafted about this situation with the unincorporated residence with an incorporated ditch. The Committee discussed the possibility of annexation of the property. Holm commented that he wishes there was a simple solution for this area but there are also grading issues with this property.

17. Executive Session: Purchase of Real Estate

Motion: To enter into Executive Session for Purchase of Real Estate

Maker: O'Brien

Second: Baerren

Roll Call Vote: **Aye:** O'Brien, Callahan, Malay, Cerone, McFadden, Miller, Russotto, Knopp, Baerren, Wolff

Nay:

10-0 Vote, 4 Absent. Motion carried.

The Committee exited regular session and entered into Executive Session at 9:59pm.

18. Adjournment

There being no other business to discuss, Chair Wolff asked for a motion to adjourn the meeting at 10:13pm; Made by O'Brien; Seconded by Russotto. Motion carried.

Minutes respectfully submitted by Jennifer Austin-Smith, Recording Secretary, on May 19, 2021.