

MINUTES
June 5, 2018
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 7:00pm.

1. Roll Call

Members Present: Chair Brown; Ald. Russotto, Atac, Wolff, Salvati, O'Brien, Callahan, Meitzler, Malay, Cerone (entered at 7:04pm), and McFadden

Members Absent: Aldermen Stark, Chanzit, Uher

Also Present: Mayor Schielke (entered at 7:08pm); Chief Eul, Batavia Police Department; Laura Newman, City Administrator; Gary Holm, Director of Public Works; and Jennifer Austin-Smith, Recording Secretary

2. Items to be Removed/Added/Changed

Agenda item six was discussed before agenda item four.

3. Matters from the Public (For Items NOT on Agenda)

There were no matters from the public at this time.

4. Resolution 18-71-R: Approving a Grant of Easement with LaSalle National Trust for Dam Signage and Lighting (GH 5/31/18) CS

Wolff stated that this trust is from 1956 and asked if there was anyone to contact locally about the trust. Mayor Schielke responded that it is the same owners of the trust and they are local. Holm stated that the Challenge property on the east side of the river is the property in question. The lighting and signage project is out to bid. The easement was granted with no specific compensation. As a good gesture on the City's behalf, the City would like to reimburse for the attorney's cost. Holm stated that maintenance, lighting and signage and perpetuity are no different than any other area in the City.

Motion: To recommend approval of Resolution 18-71-R: Approving a Grant of Easement with LaSalle National Trust for Dam Signage and Lighting

Maker: Meitzler

Second: Salvati

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

Chair Brown was the nay vote.

5. Discussion: North Batavia Dam Planning Effort Status Update (GH 5/29/18) CS

Holm reported that IDNR considers the dam in failed condition. IDNR will not issue permits for structural repair work. If any work were to be done to the dam the dam would have to be brought up to today's standards.

WBK and staff discussed strategies going forward. One of the strategies is to replace the dam and rebuild it brand new meeting today's standards. This is not a course of action that is feasible. IDNR really wants to get rid of the dams ultimately and the cost to rebuild. A take-no-action strategy is not sustainable in the long term. Insurance continues to press on requirements. The insurance company will not allow ignoring the dam.

Staff's recommendation is to address the dam in one way or the other during the strategic planning process. One option might be building a smaller dam to preserve the depot pond. Another option would be preserve a portion of the pond. Some concept should be considered where the pond is preserved and the existing dam could be demolished to eliminate the hazards. Other improvements upstream and downstream could be considered. Holm stated that staff is recommending moving forward with the conceptual planning efforts, get cost estimates, and add the plan for the dam to the strategic planning process.

The Committee discussed the planning for the dam. Mayor Schielke discussed the history of the dam with the meeting attendees. Callahan stated that the ownership of the dam is a question that has not been alleviated. Any plan that we have to put forward will have the question why are we doing anything with the dam if we do not own the dam. Callahan stated that we need to have some process done to get the answer on whether or not the City has ownership over the dam. Brown stated that he is not opposed with moving forward with a plan on what we are going to do. Brown explained that the intent was to give the land over to the State and that is where the court would have to make the final say on this. The intent was if the City acquired the rights to the property around the dam so the State could go in and work on it and maintain it, the State would take ownership of the dam but the City would have to get those rights first. Brown noted that it might all have been verbal. Brown stated that he would continue to vote no on all things that insinuates that the City owns the dam.

The consensus of the Committee was to protect river walk and depot pond and the only way to do that is to make future plans for the inevitable failing dam. We should continue to explore a way we could protect our river walk and pond and work with staff to come up with a dam further north similar to what IDNR proposed to do in 2002. The consensus of the Committee was in favor of staff hiring an outside attorney that specializes in this type of litigation to give staff an idea of the cost and give a brief overview on what could or could not happen in regards to dam ownership. Holm asked if staff should continue with engineering planning at this point and Brown stated that staff should continue. There was no objection from the Committee with staff continuing with engineering planning.

Yvonne Dinwiddie, 1156 Pine Street, asked if the Army Corps of Engineers was contacted. Newman stated that they are looking to IDNR as the lead agency of that. Dinwiddie stated that if the Corps of Engineers (COE) controls the waterways and they are working in conjunction with IDNR then we don't own the dam. The COE owns the water. The owner of the dam is

responsible. There is no proof that we own the dam. We should be legally off the hook. Newman stated that we would get that legal opinion.

Carl Dinwiddie, 1156 Pine Street, stated we have to find a dam attorney that is for sure. He would like to know the case law on this matter.

Newman announced that the Batavia Park District and their Board would like to get together again with City Council to discuss the future plans for the river. Brown suggested that the research with the attorney be conducted prior to this meeting so that we are more informed on the dam for discussion. There was no objection from the Committee.

6. Discussion: Results of Speed Study – South Batavia Ave from Millview to Main Street (RB 5/31/18) CS

Holm reported that the results of the speed study only showed a difference in speed of five miles per hour. In order to get more data Holm stated staff would do longer counts and report back to the Committee. The consensus of the Committee was that additional speed data collection is imperative so that we have enough data to support a request to drop the speed limit.

7. Discussion: Wilson Street Concrete Utility Pole Structural Assessment Results (GH 5/31/18) PU

O'Brien reported that the City owns 81 poles. Deterioration is happening on 24 poles that need to be replaced. Holm stated that originally we thought we could do concrete repairs to preserve these poles. One pole got hit and we saw structural failure in the pole that made staff concerned. Staff retained services of an engineer and they did a complete analysis. There is now a list of poles that need to be replaced, repaired and/or replaced, and those that needed to be monitored. Structural repair only offers one-year warranty on the work. Buying new poles offer a lifetime warranty on the poles. The cost is 2-3K for structural repairs with a one-year warranty or 5k per pole for a brand new pole with a lifetime warranty. Staff is recommending replacing 24 poles at \$5,000 a piece for a total of \$125,000. This is not in our budget so a budget amendment would be needed. Staff is confident all twenty-four poles could be replaced this year.

Holm stated formal action would be in the form of a budget amendment in the future. The consensus of the COW was in favor of moving forward.

8. Project Status

Newman reported on the following:

- Community survey result report will be created
- The next Strategic Planning meeting will be held on June 11th at 7pm at the East Side Firehouse
 - Preliminary looking at the results to the survey
 - Major areas to put our resources and efforts over the course of five years will be discussed

9. Other

Holm reported that the City's 2017 Water Quality Report, created by Jeremy Barkei, was published in the Neighbors magazine. A letter was received from IDNR and it was a personal letter commending the quality of the report and they would like to use this report as a template for other communities to use.

Wolff announced that discussion on suicide prevention for September and will be scheduled for a Council meeting.

10. Executive Session: Probable Litigation 5ILCS 120/2 (C)(11)

Motion: To enter into executive session for the purpose of Probable Litigation 5ILCS 120/2 (C)(11)
Maker: O'Brien
Second: Callahan
Voice Vote: 11 Ayes, 0 Nays, 3 Absent
Motion carried.

The COW entered into Executive Session at 8:46pm. Alderman Callahan exited the meeting at 8:46pm and did not attend the Executive Session portion of the meeting. The Committee exited Executive Session at 9:00pm.

11. Adjournment

There being no other business to discuss, Chair Brown asked for a motion to adjourn the meeting at 9:00pm; Made by O'Brien; Seconded by Meitzler. Motion carried.

Minutes respectfully submitted by Jennifer Austin-Smith