

MINUTES
August 14, 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 (entered at 7:04pm), Stark, Wolff, Salvati, O'Brien, Callahan, Meitzler, Uher, and Cerone (entered at 7:01pm)

Members Absent: Aldermen Chanzit, Malay and McFadden

Also Present: Mayor Schielke (entered at 7:48pm); Laura Newman, City Administrator; Gary Holm, Director of Public Works; Scott Buening, Director of Community Development; Drew Rackow, Planner; Peggy Colby, Director of Finance; Jeff Albertson, Building Commissioner; Bob Rodge, Electric Division Senior Engineer; Chris Aiston, Economic Development Consultant; and Jennifer Austin-Smith, Recording Secretary

2. Approve Minutes for July 10, July 17, and August 7, 2018

Motion: To approve the minutes for July 10, July 17 and August 7, 2018

Maker: Meitzler

Second: Uher

Voice Vote: 9 Ayes, 0 Nays, 5 Absent
Motion carried.

*Alderman Cerone entered the meeting at 7:01pm.

3. Items to be Removed/Added/Changed

Chair Brown noted that if the meeting is running long, agenda item number seventeen would be postponed until a later Committee of the Whole (COW) meeting.

* Alderman Atac entered the meeting at 7:04pm.

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

Yvonne Dinwidde, 1156 Pine Street, stated that she received an email from the Board of Elections yesterday. They filed our petitions last Monday, they were signed for here at the City, and the Board of Elections would like to know where are our petitions regarding Home Rule. They should have been filed. Dinwidde stated she would like to get it on the ballot to remove

Home Rule because, in our opinion and of the opinion of many of the citizens of Batavia, the Council is not listening to the people. A lot of people are very angry over a lot of things, including the electric company, One North Washington, flooding, and streets. There are people who are leaving Batavia. We want those petitions filed with the County. Newman responded that the statute provides that the Board of Elections from the City of Batavia must file the petitions within forty-five days. The first five days are allotted for a period of time for someone to object to the petition so that they could do so. There has been no deadline that has been missed by the City of Batavia in regards to the petition.

Carl Dinwiddie, 1156 Pine Street, discussed the importance of a Designated Agency Ethics Officer (DAEO) in federal agencies. He shared that he served in that role for the central region as Chief of that area. From his understanding, no City employee or elected officials could advocate for either side of a question or electioneering.

5. WWTP Monthly Project Update PU

Jerry Ruth updated the Committee of the Whole (COW) on the July 2018 Waste Water Treatment Plant update.

6. Initial Land Use Proposal Review – Windmill Commons – Grandview Capital, Applicant (DMR 8/9/18) CD

Stark overviewed the memo. John Green from Engineering Resource Associates, Civil Engineer, representing the applicant, addressed the Committee. Green overviewed the project utilizing a PowerPoint presentation with the COW. Uher asked about the wooded area and how much would be preserved. Green stated that they do have a tree survey prepared but about fifty percent of the species that are there today are mulberries, buckthorns and cottonwoods. Although they are green, hardly any of them are on the City's desired species list. We do have a landscape plan prepared that would complement the area. The Committee discussed the proposed plan, ingress and egress, and ADA accessibility options available. After discussion with staff, Stark opened the floor for public comment.

Beth Taylor, VanNortwick Townhomes resident, addressed the COW. She asked about the landscaping and stated that it was a big concern for her. She would like to have a lot of green space and landscaping included into this project.

The COW discussed the proposed land use change and the consensus of the COW was in support of this development.

7. Resolution 18-94-R: Sale of Municipally Owned Real Estate on Danforth Drive (SCB 7/20/18) CD

Stark overviewed the memo.

Motion: To recommend approval of Resolution 18-94-R: Sale of Municipally Owned Real Estate on Danforth Drive

Maker: Callahan

Second: Wolff

Voice Vote: 11 Ayes, 0 Nays, 3 Absent

Motion carried.

Stark noted that this has to have two-thirds approval at Council.

8. Ordinance 18-55: Establishing SSA 62 for Batavia MainStreet (SCB 8/6/18) CD

Stark overviewed the memo. The Committee discussed Batavia MainStreet and the work the organization does, establishing the SSA, and preventing the amount from getting to \$100,000. Buening stated that the ultimate decision on what the SSA is going to be is up to the Council. There is no obligation to levy \$100,000. Chris Faber, Executive Director of Batavia MainStreet, addressed the Committee. Faber overviewed the structure of Batavia MainStreet and stated that a value of Batavia MainStreet is general property value increase and bringing in new clientele for local businesses. The COW discussed quantifying the value of Batavia MainStreet and Wolff welcomed local business owners who are not in support of supporting Batavia MainStreet to attend a COW meeting to express their concerns.

Motion: To recommend to Council approval of Ordinance 18-55: Establishing SSA 62 for Batavia MainStreet
Maker: Cerone
Second: Atac

Discussion was held on the motion. Callahan asked when the SSA expires. Buening answered that it expires in November. Callahan stated that he would like to know some information on whether or not it is possible to add some language about when it gets raised above \$40,000 a public notice gets sent out so those have the ability to challenge it. Callahan stated that he would like to know that before he makes a decision on this matter, so for now he would be voting no on this motion. Buening noted that a public hearing is scheduled for the 20th and the public hearing could be continued to give staff extra time to research this. O'Brien suggested keeping the ordinance simply written as it is now. O'Brien called to question.

Roll Call Vote: **Aye:** Cerone, Russotto, Atac, Stark, Wolff, Salvati, Brown, O'Brien, Meitzler, Uher
 Nay: Callahan
 10-1 Vote, 3 Absent, Motion carried.

9. Ordinance 18-43: Establishing SSA 63 for Prairie Commons (Residential Portion) (DMR 8/9/18) CD

Stark summarized the memo.

Motion: To recommend approval of Ordinance 18-43: Establishing SSA 63 for Prairie Commons (Residential Portion)
Maker: Meitzler
Second: Russotto
Voice Vote: 11 Ayes, 0 Nays, 3 Absent
Motion carried.

10. Ordinance 18-44: Establishing SSA 64 for Prairie Commons (Commercial Portion) (DMR 8/9/18) CD

Motion: To recommend approval of Ordinance 18-44: Establishing SSA 64 for Prairie Commons (Commercial Portion)
Maker: Uher
Second: Russotto
Voice Vote: 11 Ayes, 0 Nays, 3 Absent
Motion carried.

11. Resolution 18-96-R: Authorizing Execution of a Contract for the 2018 Patching and Seal Coating Program with Geneva Construction Co. (CCB 8/6/18) CS

Holm summarized the memo. The Committee discussed the seal coating project and how this project is environmentally friendly and is preventative maintenance.

Motion: To recommend approval of Resolution 18-96-R: Authorizing Execution of a Contract for the 2018 Patching and Seal Coating Program with Geneva Construction Co.
Maker: Uher
Second: Stark
Voice Vote: 11 Ayes, 0 Nays, 3 Absent
Motion carried.
CONSENT AGENDA

12. Discussion: Short Term Home Rentals (AirBNB)(Continued)(SCB 8/1/18) GS

Buening stated that staff has discussed with legal counsel some issues that have arise from owner/occupied housing. Buening explained if the home is occupied by the owners less than fifty percent of the year that would fall into the hotel category. The residence would have to be in a zoning district that would allow for hotels and the residential district does not. The other, if the resident is there for more than fifty percent of the year the definition becomes less clear. Buening stated that there is a possibility to change the short-term rental ordinance to require an owner or responsible party to be on the premises 24/7 while renting out the home to ensure that nothing bad is happening. Mayor Schielke noted that there are some homes being rented out for the purpose of house parties and that has become a nuisance to the neighbors.

Staff was directed to proceed with enforcing the ordinance and leaving the ordinance the same. Staff will return to the COW for discussion on short-term home rentals within six months to one year. Buening was asked to have this matter on his report for the City Council meeting.

13. Resolution 18-97-R: Authorizing Execution of a Contract with Peak Substation Services, LLC of Birmingham AL for Substation Structure Materials Package for the Northeast Distribution Substation for the not-to-exceed Amount of \$107,100.00 (Bob Rogde 8/10/18) PU

Rogde discussed all three ordinances (18-97-R, 18-98-R, and 18-99-R) with the COW. His PowerPoint presentation included photos of the two new 34.5kV feeders (2), substation plan view, Cherry Park Transformer, Building Plan View, Building Elevations, New Building

Appearance, Cherry Park 34kV photos, Cherry Park 15kV, Budget vs Actual (negative \$276,641.78). Holm noted that this is the substation that has been on fire twice now. Rogde added that this substation serves our largest revenue generating electrical customers.

Motion: To recommend approval of Resolution 18-97-R: Authorizing Execution of a Contract with Peak Substation Services, LLC of Birmingham AL for Substation Structure Materials Package for the Northeast Distribution Substation for the not-to-exceed Amount of \$107,100.00 with 5% contingency

Maker: Stark

Second: Uher

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

14. Resolution 18-98-R: Authorizing Execution of a Contract with MP Systems of New Berlin, WI for Substation Construction Services for the Northeast Distribution Substation for the not-to-exceed Amount of \$1,086,361.00 (Bob Rogde 8/10/18) PU

Motion: To recommend approval of Resolution 18-98-R: Authorizing Execution of a Contract with MP Systems of New Berlin, WI for Substation Construction Services for the Northeast Distribution Substation for the not-to-exceed Amount of \$1,086,361.00 with 5% contingency

Maker: Stark

Second: Callahan

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

15. Resolution 18-99-R: Authorizing Execution of a Contract with Myers Controlled Power, LLC North Canton, OH for 38kV and 15kV Indoor Metal-Clad Switchgear for the Northeast Distribution Substation for the not-to-exceed Amount of \$1,228,345.00 (Bob Rogde 8/10/18) PU

Motion: To recommend approval of Resolution 18-99-R: Authorizing Execution of a Contract with Myers Controlled Power, LLC North Canton, OH for 38kV and 15kV Indoor Metal-Clad Switchgear for the Northeast Distribution Substation for the not-to-exceed Amount of \$1,091,231.00 including the 5% contingency amount

Maker: Stark

Second: Uher

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

16. Resolution 18-100-R: Resolution Placing a Public Question on the Ballot at the Next Election in the City of Batavia (LMN 8/10/18) GS

Atac reported that a petition that was filed on August 6th to place on referendum question on the November ballot if we should continue to be a Home Rule unit. Given that the referendum question could be somewhat confusing it was suggested that we also pose a question for a non-

binding referendum. Newman stated that the fact that the question is confusing is no fault of the petitioner but rather it is determined by the statute exactly how the question must be worded on the ballot. They must ask the question in the negative. Rather than asking should the City of Batavia cease to be a Home Rule unit the wording could read should the City of Batavia remain a Home Rule unit. She stated that it would clarify how a voter responded to the question by voting yes or no to remaining a Home Rule unit. In addition, there is a possibility that voters at the voters' booth are confronted with this question for the first time so the City would like to provide information on the impacts on the loss of Home Rule would be. Colby has worked on those numbers for the non-binding referendum. The City would like to add the question and more information on Home Rule to the ballot. If the question is approved by the COW, both questions would then appear on the ballot. Only the petitioners question is binding.

Wolff asked about the way the wording is written in the memo and if it is slated to pay just bonds. Colby answered that we use Home Rule revenues to pay for some of the bonds. Wolff stated that he feels like the way it is worded it seems that the only way we are using the taxes for Home Rule are towards bonds. Colby stated that legal counsel suggested the wording. Wolff asked that legal counsel take another look at the wording. Uher asked that Crime Free Housing be listed in the informative section as well. The consensus of the COW was in favor of adding information on the Crime Free Housing ordinance.

Carl Dinwiddie, 1156 Pine Street, stated on Saturday he requested the City Administrator to withdraw this item from the meeting tonight with the reason that when you say the impact that losing Home Rule would have you are already taking an advocacy position about Home Rule. You are picking one side over the other. Because one municipality got away with a similar referendum does not establish its legality. He urged the Council to vote no on this because by your own website the City should not use public resources to advocate for or against the proposition. Dinwiddie stated that it was mentioned that the City has forty-five days to file the petition, that does not explain why the City is dragging its feet to file the petition.

Callahan responded that Dinwiddie's logic implies that the City would no longer be able to put out a referendum because you are putting the question out there to the public. By State law we have that authority whether or not we are under Home Rule. Wolff stated that the numbers that are from our financial department stating what would change if Home Rule is removed is a statement of fact. It is not in support of one or another position.

Jim Fahrenbach, 436 Waubensee Trail, stated that he has never seen something so large proposed with so little impact assessment completed. He stated that the data online has shown how greatly Crime Free Housing reduced the number of police calls of service. There has been a dramatic reduction in felony arrests. The information is out there and the information is free. You are not a holder or keeper of secrets, you have no enlightened knowledge over your fellow citizens, when you come forward you try to petition a quarter of an issue, try to solicit a signature, try to drive an agenda and not tell the other three parts of the story. You are trying to sell this to people as a viable solution for a problem neither will completely acknowledge or will drive down the dollars and cents. It's about quality of life, it's about providing a place to raise our children and be fiscally responsible and telling the full story. Putting a question with mere

nuggets of information on the referendum is a good thing, it's the moral thing to do and there should be no question on whether it could be done or not.

Yvonne Dinwiddie, 1156 Pine Street, responded that there is a whole bunch of information out there on the internet and you could look it up. She reads the contracts and reads the budget and knows what is going on in the community. When she tells them what is going on, she gives the information and they decide. She stated that she does not tell them how to vote or how to think. She resents those who say she does not know what she is talking about. She has read more contracts and does her homework. She does not think you are being fair to the voters because you have the ability to tax without limitation as long as you have Home Rule. You are not listening to the citizens and you think that the citizens are stupid. She discussed a former council member who was adamantly against Home Rule and before he died he gave her all of his documentation on Home Rule that she has read cover to cover, along with the changes. There are people who do not understand what is going on. She does not feel that the question is confusing, cease means to stop. The only reason why you have not submitted the petition is that you want your question first on the ballot so you could push people to vote the way you want to.

Wolff stated that your petition would be filed before the City's petition. He would guarantee that would happen. Newman stated that the period for objections expired twenty-four hours ago. Otherwise our election commission would have had to come together and hold a hearing and that is why there is a forty-five day process. Newman stated that she has officially been dragging her feet for a day. Dinwiddie stated that it would not have come up if they have not received an email from the Board of Elections.

Stark asked if we have to develop two budgets, one if we have Home Rule and one if we do not. Newman stated that for now we will proceed with the budget as it stands now with the understanding that there may be a need to change the budget by making cuts if we no longer have Home Rule.

Motion: To recommend approval of Resolution 18-100-R: Resolution Placing a Public Question on the Ballot at the Next Election in the City of Batavia checking on the wording with legal counsel and adding information on the Home Rule Crime Free Housing program

Maker: Wolff

Second: O'Brien

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

17. Presentation: Mid-Year Reports – Economic Development and Community Development (Chris Aiston, Scott Buening)

Chris Aiston's Mid Year Report was rescheduled to August 28, 2018.

18. Project Status

Newman encouraged everyone to sign up for alerts utilizing the Batavia website.

19. Other

O'Brien asked the City to consider more lighting by the cross walks, in particular the crosswalk across Wilson Street by McDonald's and Walgreens.

20. Adjournment

There being no other business to discuss, Chair Brown asked for a motion to adjourn the meeting at 10:32pm; Made by O'Brien; Seconded by Wolff. Motion carried.

Minutes prepared and submitted by Jennifer Austin-Smith, Recording Secretary, on August 18, 2018.