

CITY OF BATAVIA
MINUTES OF THE BATAVIA CITY COUNCIL
August 17, 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 7:31 p.m.

2. INVOCATION followed by PLEDGE OF ALLEGIANCE

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

3. ROLL CALL

13 of 14 aldermen were present at roll call.

Aldermen (by ward):

Jennifer Baerren (1), Michael O'Brien (1), Alan Wolff (2), Dan Chanzit (3), Joe Knopp (4), Abby Beck (5), Mark Uher (5), Michael Russotto (6), and Keenan Miller (7) attended in person.

Martin Callahan (2), Elliot Meitzler (3), Tony Malay (4), and Drew McFadden (7) attended by phone.

Nicholas Cerone (6) was absent.

Also present were members of the public and the following:

City Attorney	Roman Seckel
City Clerk	Ellen Posledni
City Administrator	Laura Newman
Community Development Director	Scott Buening (by phone)

4. REMINDER: Please speak into the microphone

Mayor Schielke reminded everyone to use their microphones.

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 July 7, 2020, July 14, 2020 and July 28, 2020
- B. Building Report July 2020

Approvals:

- C. August 7, 2020 Payroll \$877,280.06
- D. Accounts Payable Check Register \$2,568,345.57
- E. City Council Minutes for August 3, 2020
- F. **RESOLUTION 20-096-R:** Authorizing the Mayor to execute an Intergovernmental Agreement Amendment with the Illinois Department of Transportation related to maintenance of Traffic Control Devices (GH 8/04/20 COW 8/11/20 14/0) (GS)
- G. **ORDINANCE 20-46:** Amending Title 8, Chapter 1 of the Municipal Code related to Interconnecting Small Photovoltaic Systems (GH 7/29/20 COW 8/04/20 12/0) PU
- H. **RESOLUTION 20-95-R:** Approving Task Order #6 with Avant energy Inc. for a Financial Analysis of electric Utility Purchase Power Cost (GH 7/29/20 COW 8/04/20 12/0) PU
- I. **RESOLUTION 20-099-R:** Approving a contract with eX² Technology (eX²) for the design engineering of a communications shelter at Paramount substation for an amount not to exceed \$30,351.31 (RB 8/06/20 COW 8/11/20 13/0) PU
- J. **RESOLUTION 20-100-R:** Approving a contract with Sargent and Lundy for design and construction engineering services of 34kV breaker replacements at Northeast, Southeast and Main Substation for an amount not to exceed \$309,862 (RB 8/06/20 COW 8/11/20 13/0) PU

Motion by Ald. Chanzit, seconded by Ald. Knopp, to approve the Consent Agenda as presented. Motion carried 13 yea/ 0 nay/ 1 absent.

7. MATTERS FROM THE PUBLIC: (For Items NOT On The Agenda)

None

8. **APPOINTMENT:** Reappoint Robert Knanishu to the Police Pension Board for a 4-Year Term

Mayor Schielke requested that the City Council approve the appointment as presented.

Motion by Ald. Chanzit, seconded by Ald. Russotto, to approve the appointments as requested. Motion carried 13 yea/ 0 nay/ 1 absent.

9. **PROCLAMATION:** Tri-City Dementia Friendly Communities

Ald. Chanzit read the proclamation, also being approved by Geneva and St. Charles, establishing the Tri-Cities as Dementia-Friendly Communities.

Mayor Schielke shared his admiration for those behind the organization that made this possible. The group meets monthly, and the mayor attends meetings a couple of times a year.

**Motion by Ald. Chanzit, seconded by Ald. Wolff, to approve the proclamation as read.
Motion carried 13 yea/ 0 nay/ 1 absent.**

10. **MAINSTREET**

Executive Director Sherri Wilcox thanked the city for the tables, lights and signage placed to support businesses on River Street, with a special thank you to Scott Haines and his team for the quick action on short notice. She noted that umbrellas are on the way. Games have been added to River Street as well, including chess, checkers and tic tac toe. The tables that were on loan from the Park District are now being used for outdoor education for Batavia schools.

A new midweek/midday promotion has been launched: \$10 Lunch Rush on Thursdays. The promotion will run through October from 11:30 to 1:30 on Thursdays and features \$10 offerings from restaurants and retailers. Promotions are particularly important now that events can't be held.

The Block Party has been canceled because the state has tightened its restrictions on gatherings. However, MainStreet will continue to work on creative ways to attract people downtown. They are looking at fall events to determine what they can and can't do. However, it's small transactions that keep businesses afloat – people need to continue to go out to eat and shop downtown.

Mayor Schielke noted that two restaurants and one entertainment venue are looking to move into Batavia. One idea is to do a progressive meal downtown, where participants would go to five or six restaurants in one night, enjoying a different course at each location. Batavia is still buzzing economically, and he complimented the Chamber of Commerce and MainStreet for their efforts. Creative friendships in the city have been key, and the Boardwalk Shops have generated a lot of interest and attention on downtown Batavia.

Ald. O'Brien noted he is impressed with the business owners and their concern for each other, also a testament to the relationships cultivated through MainStreet.

Ms. Wilcox said Batavia is a tight-knit community where we help each other. New businesses are attracted to Batavia partly because of the warm welcome they receive from fellow business owners. Batavia was recently chosen by readers of *Kane County Chronicle* and *Glancer* as one of the best downtown shopping districts.

11. **ORDINANCE 20-45:** Major Amendment to a Planned Development Overlay for One Washington Place Mixed-Use Development 111-133 East Wilson Street and 20 North River Street, 1 N. Washington, L.L.C., applicant (JLS 8/04/20 COW 8/11/20 8/6) CD

Ald. Callahan explained this item amends prior ordinances 18-29 and 17-15. In March 2020, the developer noted that there was insufficient time on TIF 5 and wanted to extend it. One taxing body voted down the extension, so the city is now asking to de-TIF TIF 5 and introduce TIF 6. The Plan Commission approved four of the conditions and tied on the fifth.

Ald. Uher noted he has nothing against Shodeen or building apartments or high-density housing, but he believes the current plans are too large and don't fit the character of Batavia's downtown.

Ald. Beck had questions about changes made to the item today regarding whether the property reverts back to city property if the developer does not move forward on the project.

Administrator Newman explained:

- That section lays out what happens if the developer is unable to finish the project.
- We have a performance bond in place to complete the project.
- In order to make the bond payments, the project needs to be completed and generating revenue.
- First, the city looks to the TIF to pay the bond. If those funds are insufficient, the developer can either make the debt payment or the city can implement an SSA that would cover any deficiency in the EAV.
- It all becomes necessary to make sure the project can be completed.
- The city needs access to the development site in order to complete the project but does not require ownership. In fact, if the developer defaults and ownership of the property reverts back to the city, the city would have to pay the taxes, the SSA and make the bond payment.

Administrator Newman said if the developer doesn't complete the project, the city would likely take the existing plans and hire another builder to finish it.

Ald. Beck said she spoke with the city administrator in Oswego, where a similar project is underway with Shodeen. That administrator noted that the city was very careful to put language in the contract to gain ownership of the property if the project does not go forward. This would avoid a situation that exists in Aurora where the developer owns a parcel of land but is not developing it.

Administrator Newman indicated that in Oswego, the bank would have the opportunity to complete the project prior to the city stepping in. In this case, the bank is not willing to take on that responsibility. The city would simply need access to the property to complete the project, but it would remain under the ownership of a private party to pay the tax bill, make a gap payment or paying the SSA if established.

Ald. Beck asked who that private party would be. Administrator Newman said it would be whoever owns the property at the time. The developer will get a construction loan, and the lender will require the land as collateral on that loan. If the owner has defaulted on payments to the lender, then likely the lender will be the owner at the time of default. The access agreement is a three-party agreement between the city, developer and lender. Administrator Newman noted this

agreement is preferable because it is not in the best interest of the city to be in possession of a partially built development. The access agreement and performance bond in place ensure the public parking structure and private part of the development get built.

Ald. Beck asked how the Aurora situation is different. Administrator Newman said she is not sure about that situation, but if the developer owns the land in Aurora and chooses not to develop it, that is up to them. In this case, certain measures need to be taken before the city will transfer the land to the developer.

Ald. Beck said these changes have given her pause, and her support has been hanging on by a thread. She said she had been prepared to vote no tonight, but when she listens to the positivity of people in the room and considers how much work has been done by city staff and City Council to bring River Street to life, she wants to believe this is the next catalyst for downtown. But she is concerned that a catalyst can be good or bad, and in this scale, it could go bad, and a small sliver of the community is supporting this. She is concerned that this could take down small businesses in the area during construction. The pandemic is taking a toll on businesses already, and maybe 2020 is not the right year for a catalyst. She said her messages this week were exclusively negative, and she tried all week to respond to messages and explain that taxes will continue to go up in Batavia without a project like this to offset them. But a project this size carries a lot of risk. The project has already led to positive changes with cleaned up properties downtown, and perhaps a smaller project that would bring incremental improvements and less risk would be a better choice.

Administrator Newman said in Oswego, that project has launched successfully with no drama. Their city administrator said there were people against it because of the sheer magnitude, but that has died down since construction started and now people are getting excited. She said she can appreciate the concern because it is the first project of this magnitude in downtown Batavia, but the timing could not be better to have a developer willing to put a \$50 million project downtown and creating \$1 million in new EAV to be shared compared to \$6,000 now. It would be hard to say no to that kind of economic driver downtown.

Ald. Chanzit noted that in his experience working for a bank, banks do not want to own property; they want to make sure projects get finished so they can get paid and move on. He said he could empathize with Ald. Beck's receipt of negative comments about the project, as he has encountered a wall of "no" for six months. However, he said the reason they were elected is so that they could spend hours reading all of the reports and attending meetings. He said some people who send emails about the project have not had the benefit of reading any reports. He noted that one previous proposal was for a dozen townhomes on that space, and the city said absolutely not because it would be a waste of space. Then the developer presented plans for a large building. Then it was decided if the building was a bit larger, it could pay for a new public parking garage. The current iteration of the project is almost identical to the proposal almost unanimously approved by the City Council. The factors have not changed. Last week, people complained about the cookie cutter design; Ald. Chanzit thanked the developer for adding the bell tower as a nod to the church that originally sat on the property. He said a vote to kill the project is a step backwards. He said it is guaranteeing that in order to maintain the same level of services we have in this city, the cost to taxpayers will be substantially more. This is an

economic engine for downtown, and voting against this dumps a bucket of water on the small fire that is River Street. All of the community surveys ask for a revitalized downtown. He said he still supports the project, and noted that the St. Charles mayor and have of their City Council lost their elections as a result of the First Street project there, but it was the right choice, and that is their legacy.

Dave Patzelt from Shodeen addressed the Council. He said the change to the language was added and suggested by City staff, not by Shodeen, so that language is adding some safety and security to the benefit of the city. They believe the lender will go along with it. That change should not cause additional concern.

In reference to Aurora, he is not sure what projects Ald. Beck is referring to. Ald. Beck said she was referring to a property that was an old train route along the river. Mr. Patzelt noted that property, called the East Bank Development, did have an RDA with the City of Aurora, but ground was never broken. There was a TIF district established and then the 2006 real estate collapse happened. A project has not been started there, and Shodeen is still in ownership of the land and hope to work with the city to develop that property. He noted there are differences between Aurora and Batavia, including rental rates, which are lower in Aurora compared to what could be charged in Batavia. There are also economic hardships in Aurora, and their funding is low right now, which is challenging.

Ald. Beck said the concern in Aurora is that ground was never broken but the city has no control over attracting another project. Her concern is that if ground is not broken on this project, the city would not have the ability to make a project happen. Mr. Patzelt said the situation is different because in Aurora, the land was acquired from a private party, while in this case, Batavia will sell the land to Shodeen for \$10. He said they don't want the land if they can't do the project, and before they take possession of the land, they will have to show they have the financial resources to finish the project. If that doesn't happen, the city will maintain ownership of the land.

Ald. Callahan reiterated that everyone has agreed that density in the downtown and on that parcel is desirable. He said he has heard no one deny those two facts. However, to say that people are misinformed and that is who is saying no, that is false. He said he has been on the Council since the beginning of this project, he has all of the information and has reviewed all of the same information. He understands why they were doing it, but it has changed. This has been five years with some of the largest, most unexpected events in the U.S., and they have to weigh those factors and consider risk. Like Ald. Beck, he wonders why, if these changes were beneficial to the city, they were just received today instead of during the last five years. To say a vote against this project is a step backwards is like saying a vote for it is voting for the destruction of the city: Neither is a fair statement. He doesn't think a project of this size is the way we want the city to grow.

Ald. Beck said she is a longtime supporter of the project and has followed it over the past five years. She added that many people she has talked to are informed, but they still don't support it. She said it would be a step backwards if they let it be a step backwards. Regardless of how the vote goes, the Council is going to have to prepare for how the vote impacts the city. Citizens

have had many chances to fall in love with this project, and they haven't. This is not a slam against Shodeen or development. She said the reason she has been voting yes is for all of the reasons Ald. Chanzit outlined, but those reasons still don't persuade the residents in her ward. She is aware this has been a long road, but that also doesn't mean they have to keep going.

Ald. O'Brien said they have worked on this project for five years through delays. The project will pay for itself. The emails say the project is too big and doesn't fit Batavia. Some people say it doesn't fit the vision of Batavia; it fits my vision. The people I hear from say they don't want their taxes to go up. Every year we discuss the budget and fight not to raise taxes. Last year, there was a request to raise taxes by \$12 annually. Staff said they needed the money, and Ald. O'Brien voted for it, but the item failed. If the city doesn't want to raise taxes, and understandably so, revenue has to come from somewhere. This project will generate revenue. The bond will be paid with the TIF. He said he remembers when the new library built, and people were upset about tearing down the old high school because of its history; now the library is a standout in west suburban communities. Ten years ago when River Street was discussed, Ald. O'Brien's idea was to revitalize River Street, and many people were against it. It was his vision, and he and some council members continued to push for it, and now it is nationally acclaimed and highly successful. He sees the same possibilities with this project, and he is tired of people just tearing down Shodeen. People don't understand the project and how it will benefit the city's taxes. If this doesn't pass, there is not another one that will come into its place soon. The bond is paying for parking and streetscape, not the apartments. There will be 300 people living downtown, walking to dinner, walking to get a drink. It promotes pedestrianism. This project moves the city forward.

Ald. Beck said River Street is a great success, and she trusts Ald. O'Brien's vision. She asked how to get the community to support this project. Ald. O'Brien said he didn't know the answer, but he said people were not on their side for the library either, but once the projects are accomplished, they like it. They will like the revenue generated. Ald. Miller said it will take time for people to like it, but they will.

Mayor Schielke recalled the building of Riverrain along the river, and many people were opposed to that project. Now 35 years later, he thinks of all of the long-time residents of Batavia who were able to sell their homes and live in that facility and stay in town. He wonders where all of those life-long Batavians would have ended up.

Ald. O'Brien recalls Ald. Brown's father took a lot of heat for purchasing the City Hall building, too.

Ald. Wolff said he has listened to all sides of the discussion, and he said this isn't over because a similar project is right behind it on the west side. Batavia is not growing out; it has to grow vertically to grow the tax base. The only way you do that downtown is with TIFs because of the older, historical nature of the area. You have to consider how it will impact Batavia 20 years from now. If this doesn't go through, nothing is going to go through, and we'll have a shrinking tax base. He said the city has squandered too many opportunities, and he doesn't want to let this one go because it will be the catalyst for similar projects in other parts of the city. Going vertical downtown will make this town flourish.

Ald. Baerren said this project requires the creation of a TIF that also affects other properties, so it will help in redevelopment of those properties, too. Ald. Beck suggested those properties are in an existing TIF. Ald. Wolff said not all of them are. Administrator Newman noted that TIF 1 expires in four years, which covers a lot of properties. Ald. Baerren said these are smaller locations with the potential for 20 or 30 units. That will add something, but not enough. We need to attract more people to ease the tax burden. If we don't do that, we can't continue to improve downtown and move the city forward. People will leave, the tax base will shrink, and the burden will fall on those who stay.

Ald. Callahan said he doesn't like the tone that if you're against this project, you're against change. He doesn't believe voting against this puts the city in the poor house. He said he brought forward the Community Dinner and the Boardwalk Shops because he believes the community spirit is what binds us. To suggest they are against the project because of aesthetics is false. He believes this project will overburden city services and the area. Selling this as \$1 million project is misleading because that money will not be seen for 23 years. That is why the School Board unanimously voted no. This has to go back to the joint tax review board again, and if they don't approve it, it doesn't kill it, but you have to have a 2/3 vote. It's not just our vision; other community members will vote on this. To say that a \$50 million project goes away is misleading: We are not as a city getting \$50 million. We are getting a parking garage that is paid for with taxes. We know there are other ideas out there.

Ald. O'Brien said the district right now gets \$6,700 for that parcel of land. They will get that for the next 23 years. Nothing is getting taken away. If there is no increment, let's say they get \$10,000. That's \$230,000 in 23 years. Then they will get \$1 million. No one has ever said Shodeen was writing a \$50 million check. It is an investment. We are paying for the parking garage and the streetscape. They are paying for part of the parking garage and the apartments. It's an investment in our city to bring people into our city.

Mr. Patzelt noted that the debate started because Ald. Beck raised concerns about language added today, and asked if there was something that should be revisited in that language. Ald. Beck said there is nothing specific in the language, it was just a red flag for her when her support has been wavering for months. She said it helps to see the passion that still exists for the project, and if it goes through, it will need a lot of support from the City Council. She wants to see something that will turn around public support for the project.

Ald. Russotto said in a month or two, they will be discussing the budget, and once again will be trying not to raise taxes. His constituents are asking what the city is doing to lower taxes. This is an opportunity to lower taxes in the future.

Administrator Newman said many people have said the city will need to wait 23 years to benefit from the project, but that is not true because people living in 186 units downtown will be spending money in the downtown, and new businesses will move in to meet their needs. The Fermilab project will require 2,000 new employees in a couple of years, and this project would be ideal for those new hires from 20 other countries.

Ald. Meitzler said this debate has gone on for his entire tenure; every hurdle is said to be the last, and now five years later with a third election coming up, they are still hearing this is the last step. He doesn't have a problem with the size of the project, but the cost continues to increase. We kept believing it was the last step, and they have kept chasing the project. But they have found other ways to stimulate the downtown. This won't pay off until one or two more elections. He said in six months, they will back for one more thing. He doesn't believe in the project anymore. This design is closer to what they originally had, and he liked that original design, but at the cost that was originally discussed.

**Motion by Ald. O'Brien, seconded by Ald. Wolff, to approve the ordinance as presented.
Motion carried 7 yea/ 6 nay/ 1 absent.**

12. **ORDINANCE 20-51:** Authorizing Execution of the Third Amended and Restated Redevelopment Agreement for One Washington Place (LN 8/06/20 COW 8/11/20 8/6) GS
Ald. Chanzit introduced the item. Two items requested by the developer were denied by the City Council.

Ald. Wolff asked if the language here includes the change today in the RDA. Administrator Newman said yes.

Ald. Callahan said a vote for this is not right for the community.

**Motion by Ald. Chanzit, seconded by Ald. Baerren, to approve the ordinance as presented.
Motion carried 7 yea/ 6 nay/ 1 absent.**

13. **RESOLUTION 20-097-R:** A Resolution expressing official intent regarding certain expenditures to be reimbursed from the Special Tax Allocation Fund, from proceeds of an obligation issued, if any, or other sources from such fund in connection with a Proposed Tax Increment Financing District commonly described as the Near East Downtown Redevelopment Project Area (LN/CA 8/06/20 COW 8/11/20 8/6) GS
Ald. Chanzit presented the third item related to the TIF.

**Motion by Ald. Chanzit, seconded by Ald. O'Brien, to approve the ordinance as presented.
Motion carried 8 yea/ 5 nay/ 1 absent.**

14. ADMINISTRATOR'S REPORT

An additional brush pick-up started after the recent storm. The brush pick-up map on the city's website shows which areas have been picked up so far.

Carl Dinwiddie thanked city staff for their response to the derecho storm. The line workers, water crews, Police and Fire Departments were very busy, with the Police Department receiving a record number of overnight calls for help. Two city staff members fielded hundreds of calls and sent 65 dispatches to city staff.

City staff continues to meet with people interested in relocating to Batavia.

15. COMMITTEE REPORTS

Ald. Wolff reminded everyone to keep their street drains clear.

16. OTHER BUSINESS

Ald. Beck said the owners of Limestone have a traffic sign in front of their store that is using up a parking space. They asked if they could put a bike rack in the rest of the parking space. Administrator Newman said there is concern about the high volume of traffic on Wilson Street and how to safely move bikes around. She added that the city has provided a bike rack on Shumway around the corner. She suggested an additional bike rack might be placed behind the building, but Ald. Beck doubted it would be utilized. Administrator Newman said she would look into the options.

17. MAYOR'S REPORT

Mayor Schielke said the city is undergoing significant road construction on Prairie Street, Main Street and Route 31, plus the storm-sewer separation project. Kane County is working on Randall Road plus Fabyan Parkway/Kirk Road. The City Council approved the use of the Motor Fuel Tax for roadway improvement funds, and the city received millions of dollars in grant funding for the projects.

Ald. Wolff noted a lot of original brick has been exposed under Route 31, and an 8-foot by 8-foot brick structure was uncovered under Main Street. Mayor Schielke said the system has been in use for 100 years and was due for an upgrade.

The Mayor recounted an incident that unfolded at the North Dam in which a couple of a pontoon boat ran out of gas and got stuck on top of the dam. Many firefighters were involved in the rescue effort, and when one passenger ended up in the water, Officers Thune and DiNicola were able to rescue her. The IDNR will retrieve the boat. Administrator Newman noted the successful rescue was a testament to the excellent training city staff receives.

Mayor Schielke said this is one example of why the dam should be removed. Administrator Newman noted that city staff would be meeting with representatives from the Park District tomorrow night to discuss an IGA with the city to hire a consultant to analyze the existing dam removal plan. ITEP grants from the state are available, and the city will pursue grant money for dam removal.

Mayor Schielke said 916 Park Street is finally cleaned up on the outside. Ald. Knopp shared that 86 tires were pulled from the property and stacked up. Mayor Schielke thanked the 4th Ward aldermen for the part they played in this situation, and said several people have already called the city to share their appreciation.

18. ADJOURNMENT

Motion by Ald. Wolff, seconded by Ald. O'Brien, to adjourn. Motion carried by voice vote. The meeting adjourned at 9:30 pm.

Minutes prepared and submitted by Ellen Posledni, City Clerk, September 14, 2020.