

MINUTES
September 26, 2017
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.

Vice-Chair Wolff called the meeting to order at 7:32pm.

1. Roll Call

Members Present: Ald. Russotto, Chanzit, Wolff, Salvati, Callahan, Meitzler, Mallay, Uher, and Cerone

Members Absent: Chair Brown; Aldermen Atac, Stark, O'Brien, McFadden

Also Present: Mayor Schielke (entered at 7:33pm); Laura Newman, City Administrator; Mark Schuster, Legal Counsel; Scott Buening, Director of Community Development; Drew Rackow, Planner; Joel Strassman, Planning and Zoning Officer; Jeff Albertson, Building Commissioner; Anthony Isom, Administrative Assistant to the City Administrator; Gary Holm, Director of Public Works; Andrea Podraza, Senior Civil Engineer; Chris Cudworth, Communications Coordinator; and Jennifer Austin-Smith, Recording Secretary

2. Items to be Removed/Added/Changed

There were no items to be removed, added or changed.

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

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

4. Consent Agenda

(The Consent Agenda is made up of items recommended by city staff that requires recommendation to the full City Council by the COW. This agenda is placed as a separate item on the COW agenda. The items on the Consent Agenda are usually minor items, already budgeted, standard non-policy activities or outgrowths of earlier meetings and are voted on as a "package" in the interest of saving time on non-controversial issues. However, any council member may, by simple request, have an item removed and placed on the "regular" agenda.)

- a. 2016 Police Pension Municipal Compliance Report and 2017 Tax Levy Request
- b. 2016 Fire Pension Municipal Compliance Report and 2017 Tax Levy Request
- c. August Financials
- d. Resolution 17-105-R: Accepting Grant of Easement from Batavia Park District for Area 3 Storm Sewer Separation project at Quarry Beach (AMP 9/12/17) CS

- e. **Resolution 17-108-R: Accepting Grant of Easement from Suncast for the Suncast Building Expansion Project (TFG 9/21/17) CS**
- f. **Resolution 17-109-R: Authorizing a Reduction in the Letter of Credit for the Suncast Building Expansion Project (TFG 9/21/17) CS**

Motion: To approve the Consent Agenda as presented
Maker: Salvatti
Second: Uher
Voice Vote: 9 Ayes, 0 Nays, 5 Absent
Motion carried.

5. Resolution 17-106-R: Authorizing Execution of Contract with ALamp Construction for Area 3 Storm Sewer Separation in the amount of \$165,981.20 (AMP 9/12/17) CS

Callahan summarized the memo. Podraza reported that this is the first phase of the Area 3 Storm Sewer Separation project. Callahan noted that this is one of the areas that needs addressing due to flooding issues.

Motion: To recommend approval of Resolution 17-106-R: Authorizing Execution of Contract with ALamp Construction for Area 3 Storm Sewer Separation in the amount of \$165,981.20
Maker: Callahan
Second: Mietzler
Voice Vote: 9 Ayes, 0 Nays, 5 Absent
Motion carried.

6. Ordinance 17-59: Amendment to the Zoning Map for a Planned Development Overlay District (JLS 9/22/17) (continued from COW 9-19-17) CD

David Block, Evergreen, addressed the Committee. He addressed questions on credits, number of people per unit (1.5 people), heating and cooling design of the building and units, utility allowances, and drainage. The Committee held a discussion on the proposed Campana project and associated ordinance and resolution.

The Committee reviewed all the modifications to the requirements of the Zoning Code. There were no objections to the first two modifications. Modification number three, Zoning Code Section 2.505.B, was discussed. Uher stated that he has a problem with people not having a view, he understands that the intent is for retail but we are restricted in the Campana building because of its historic nature. Salvati concurred and added that we are forced into this because of the historic qualification. This is not something we would want to see in any other building. He does not think we should allow sub-sill windows to qualify as vision glass according to our code. He queried would we want that with any other building with residential. Callahan stated that the reason he has issues with it is regarding health and safety. Hedges are screening the low windows. He explained that with his prior experience in law enforcement and insurance he knows that you never block your windows where it could conceal criminal activity where someone could break into a window on the first floor. Uher stated that it is a health issue, it is prison-like and you cannot see outside. Callahan questioned if there is a variance process for the historic preservation entities where we could remove some of the glass block to make way for

windows. Block stated that there is no variance because they are using the Federal Historic Tax Credit as a resource to help pay for the cost of this project. Salvati commented that the glass block is not an issue to him. Wolff stated that houses have windows all the way down to the floor in housing developments all over the City so to use that as justification for not approving this does not work for him. We have allowed for low windows. Callahan stated that he doesn't know of any windows that have been approved as a variance or needed a modification because of it. We are being asked to make changes to the Zoning Code. Block stated that the rationale for going for a planned development overlay as opposed to a series of variances is due to a provision in the Zoning Code that talks about whether our property is either unique or mixed use. Block stated that this property meets both of those definitions. There are no other Campana buildings in Batavia or really anywhere. He hears concern about establishing precedent by looking at these variances. Because this property is such a white elephant, the decisions that you are looking at really could not be used to set precedent for other types of decisions. There is no other building like this anywhere in the City. The COW discussed modifications four through six and had no concerns. Modification seven, Zoning Code Table 4.204, was discussed. Wolff asked that a condition be made to have 301 parking spaces, include the full parking plan, which includes stormwater detention. Block stated that they would have to look at project feasibility as a result of this decision. They will consult with their experts and provide some thoughts on this condition.

The COW reviewed the twenty-one conditions. Conditions one through six were reviewed. Condition number seven, regarding the sidewalk, was clarified by the applicant. Block stated that the sidewalk would be from Route 31 to the property line, which is the vacant lot east of the medical office property. The Committee reviewed all of the conditions and noted that condition twenty-one requires information from KDOT. There was no modification to condition twenty-one unless KDOT requires modification.

After discussion, the COW took a short recess at 10:04pm. Public testimony was taken after the break at 10:09pm.

Samantha Malusky addressed the COW. She stated that on September 18th, she submitted a FOIA request related to Campana to IDHA. IDHA is the agency that Evergreen applied to for Low Income Housing Tax Credits. She has submitted other FOIA requests in the past for this development and the requests have been granted. After she submitted a request last week she received a letter stating that her request was denied because their revised application is currently under review and has not yet received approval or denial. Evergreen's application for this project had previously been approved. She asked in light of what is going on with the One Washington Place and funding issue there, what has happened with Evergreen's application to fund this project and why is it no longer approved. She submitted a copy of the letter sent by the IDHA for the record.

Malusky continued that she would like to talk about the KLOA traffic study. KLOA is a traffic engineering firm hired by residents who live near Campana to review the Ericson traffic study. Javier Millan of KLOA presented his findings to the Planning Commission on August 2nd. In the City of Batavia's 8/11/17 staff report the following statement was included in the report: Mr. Millan stated that he agrees with much of EREG's findings. It went further to say that KLOA

agreed that the proposed 206 parking spaces would be sufficient for the proposed uses. This is not what KLOA stated or determined. Specifically, in regards to the parking situation Mr. Millan stated and this can be viewed on the tape of his presentation that he agreed with Erickson's parking findings and immediately following that statement and qualified it with a however and went on to discuss that commercial users of the west end business (volleyball, sports training facility, etc) appear to park in the medical lot. He recommended that Erickson perform a three-day parking study to determine the actual demand and not rely on industry parking standards. In response to the 8/11/17 staff report and the way the City of Batavia characterized KLOA's report and took his parking statement out of context, on August 15th Javier Millan sent Joel Strassman an email emphasizing the ways KLOA does not agree with the Erickson study and they were numerous. This email was never included in the public record.

Mr. Millan reviewed the COB's staff minutes and reports. In response to those reports and how the COB characterized KLOA's findings Mr. Millan wrote a letter this week to the Batavia City Council and Mayor. Mr. Millan was very troubled by what he read in the City reports. He informed her that it most certainly is routine for a city to require a developer to make traffic improvement as a condition of approval even if they were outside the permitting process or roads outside their jurisdiction. She read KLOA's letter to the Mayor and City Council for the record. The letter states:

Dear Mayor and City Council members,

Based on a review of the Planning Commission minutes, it appears that we gave the impression that KLOA was in total agreement with the findings of the traffic study prepared by Erickson Engineering Associates, Ltd. However, while we stated that we were in general agreement with the methodology of the traffic study numerous issues/faults found in the analyses were not taken into account or revised.

KLOA respectfully request that you take into account the deficiencies found in the traffic study and proposed plan and the various mitigation measures identified and recommended in order to ensure the safety of the project that of the motorist public and the residents of Batavia.

KLOA prepared a memorandum dated August 1, 2017 documenting our review and our findings. KLOA also attended the Planning Commission meeting held on August 2, 2017 and presented our findings. While we did state that we generally agree with the preparation of the EEA traffic and parking study we further stated and discussed that there were various technical errors that will have an impact on the results and findings of the traffic study and that these errors should be addressed and rectified before proceeding any further. KLOA also sent an email to Mr. Joel Strassman on August 15, 2017 that, to the best of our knowledge, was never included in the public record.

All of these technical errors will have an impact on the results of the capacity analyses and the findings of the traffic study that need to be considered and addressed before any decisions were made. While we understand that the COB does not have jurisdiction over the access drives on Fabyan Parkway and IL 31, the safety of the motorists in the area and that of the COB residents

should be paramount. The City could work together with the developer, IDOT and KDOT to address these concerns and ensure that the appropriate safety measures are implemented.

KLOA also reviewed the parking study prepared by Erickson and while the proposed number of parking spaces for the residential portion of the development seem to be adequate to meet the projected parking demand based on national surveys and census data, we have concerns with the amount of parking provided for the commercial portion of the development. The land uses currently on the site constantly change activities and attendance and its parking demand cannot be determined on a single day survey. Field observations conducted by residents of the area at various times during the day have indicated that the parking demand of these facilities sometimes exceeded the number of parking spaces provided adjacent to them and vehicles have been observed to park in the parking lot serving the 725 Fabyan Medical Office building or in the adjacent unpaved parking lot. While to the best of our knowledge the medical office building has not complained about this spillage of parking into their property, good planning dictates that parking demand be accommodated internally and not by spilling onto adjacent streets or businesses. As such, it is our professional opinion that the number of parking spaces for the commercial portion of the development should be justified based on the actual demand of the uses via an eight-hour survey conducted over a period of at least three days and not solely on peak parking demand rates found in the Institute of Transportation Engineers (ITE).

The letter goes on further to list all of the deficiencies KLOA found in Erickson's study and also provides mitigation measures to improve the safety of the intersection. She asked the COW to read this letter and to not dismiss the safety issues KLOA discussed in their report.

Gordon Rowley shared that he served on a Plan Commission for six years and the experience during those years proved time and time again that the devil is often in the detail. He stated that details needed are with the parking and the meager outdoor amenities that are being provided. Future sites of possible relocation were shown on the site plan and should become a permanent part of the site plan so as you could identify future land banked area you could also identify the future site of the outdoor amenities. Condition 18 stated 'other outdoor amenities.' He asked what are the other outdoor amenities that are equivalent to a tot lot and soccer field. He stated that this condition is really vague and should be reconsidered adding more specificity.

George Boltman stated that it seems that it is a stretch to see this building as a residential building of some density. We all want to help others and have affordable housing, but just because we could make a building into a residential building does not make it fit to do so. This is a very old building and prison like. The lack of windows and the heating and cooling issues are a concern. If we are to put something in our community to benefit others then it should be created to support a good livable situation. He continued that from an engineer's point of view a heat pump would run all day long in order to heat the inside of one of those units and you would see the cost for heating skyrocket for people who could not afford it. The details need to be looked at for something like that. He asked that the COW take into account the housing values in the area and make sure that this is a good viable project.

Erin DiSilvestro expressed concern about the school system. The high school is already overcrowded. The Geneva Police Department consists of ten to fifteen police. When we had the

gun scare they don't have metal detector wands or metal detectors. She was concerned of more than just family members staying at the Campana. She asked how could you prevent non-family members from moving in with people at this residence. She asked how could we increase police protection and increase security guards in schools to help keep the children safe.

Jacob Sanfranski distributed "Who Wants Affordable Housing in their Backyard? An Equilibrium Analysis of Low Income Property Development" handout. Low-income housing developments in higher income areas drop property values by 2.5% and attract lower income households. Building low income housing in high-income areas leads to a net loss of seventeen million over a set period of time. Low-income housing is ideal in communities that are already high in need and low income and Batavia does not fit that match. Low income housing would have to house thirteen hundred children for benefits of the tenant to outweigh the cost to the society, tax payers included. Given the average development has 82 apartments, (this development is eighty) the average is impossible for thirteen hundred children to be raised in these homes nor to trust the benefit to get our money's worth.

He has been a firefighter and paramedic and was raised as one of six kids with a single mother. He knows what affordable is and how hard it is. His sister lost her lung in a car wreck when she was fourteen and still has not recovered to this day. Motor vehicle crashes are the leading cause of death in children in every age bracket. No one has addressed the truth that this area is not safe. He lives off of Route 31 and his residential street is not 45 miles per hour for good reason. This is where families and people would live. The Campana factory building is not best suited for residential housing. The factory is not where people go to live. There is going to someone injured or hurt and he hopes that it would not be anyone's kids in this room. His mother is this woman proposed to live in this building. He knows what hard times are like. He stated do not tell me that this is a good idea because the people who have done the work know it is not.

Patti Lackman stated that she represents the League of Women Voters of Central Kane County. The League of Women Voters is a non-partisan political organization that advocates for government issues and programs that confirms the league's commitment to diversity, pluralism and inclusion. One of these issues is affordable housing. The League supports governmental and community efforts to ensure affordable, safe and decent housing for the citizens of the communities of central Kane County, which includes Batavia, Geneva and St. Charles. The proposal by Evergreen Real Estate Group for the Campana achieves this objective by including affordable rental units. Approval of this project would help the communities meet the critical housing needs of our low wage earning working citizens. In addition, approval of this project will preserve a Kane County historical jewel. Out of the fear of the affordable housing component of the proposal opponents are advocating for something better be done to this property. No one has proposed a workable use for this property for over forty years. The League believes that the proposal presented by Evergreen is our community's last best chance to save a building worth saving while providing affordable housing to citizens who deserve the opportunity to live in communities in which they work. The League supports Evergreen's proposed redevelopment for the Campana building and encourages the City of Batavia to approve this proposal.

Jenna Dempsey asked would Batavia's crime free housing ordinance as it is currently written apply to the Campana development. She asked if it is written to cover multi-family housing in mixed-use zoning districts. She asked would a rental license be required for the Campana development. Wolff answered yes and yes. She asked if Batavia has a developer impact fee that goes towards transportation improvements. She was reading over Evergreen's agreement with the City of Mundelein for their recent development up in Lake County. Page ten of the agreement shows the City of Mundelein has a \$2,795 traffic impact fee for every apartment that goes in. Evergreen paid \$111,800 just in traffic impact fees. She stated that it would be great if Batavia did something similar. She submitted a copy of the agreement with the City of Mundelein for the record.

Jennifer Beal asked about the Certificate of Appropriateness (COA) that Evergreen had to fill in and be approved by the Historic Preservation Commission (HPC). One of the conditions, number nine, stated that the Campana building has to have ceramic glass fritted windows. The sample that Evergreen brought to the windows was a vinyl laminate with a brick pattern to match the building sandwiched between two pieces of glass. She asked if Evergreen would be providing a sample of the ceramic glass fritted windows. She addressed the fear that has been discussed. Based on a comment that Evergreen made last month regarding crime statistics at its Buena Vista property, they stated that it was four to five times bigger than Campana and a fundamentally different project than Campana but there were 95 arrests made over eighteen months. They predicted that would translate to seven to twenty-two arrests at Campana over a similar time period. She does not know what the crime rate is there currently. She is wondering if all developers come in with the rhetoric that you could expect a certain amount of crime. She wondered if the police chief could comment on how many arrests were made at the Campana recently especially in light of the fact that crimes in this area are down. She asked if we are inviting more crime in by allowing the Evergreen development to go forward.

Joshua Tate, resident of Geneva, addressed the Committee. He has family that lives in Batavia. He has a public service background. One of the reasons he and his family are out in this area of Illinois is because of the reputation of good decision making in the general Kane County and Fox Valley area. He is encouraged by the debate and attention to detail that he has seen. If he were in your position he would be looking at what is the sum total of this thing and how does that dictate where my vote should show up. A big thing that everyone has talked about and no one has disputed is safety. The variances, standards and codes and precedent that is being set down the line has merit and should be looked at. Once you start accepting big variances such as these all of the other Evergreens are going to come in and try to do the same thing. There has been talk that this is the only chance for this building because no other projects have come in and Evergreen is the savior. Most of this is being supported by taxpayer money. A trend in government is government bails out bad decision making in the business world but that is not the job of government. The job of government is to have proper frameworks set out so that commerce and markets could define themselves. He asked the Committee to look at the sum total of the parts and ask is this really a good decision.

Tom Simonian, Geneva resident and property owner in Batavia, addressed the Committee. He reported that he commissioned a housing trends company to evaluate the potential property value impact of a redevelopment of the Campana factory to affordable family apartment units. The

objective was to analyze similar affordable housing in communities in the suburbs with similar demographics as Batavia in order to evaluate whether the proximity to an affordable rental community had a negative or positive impact on property values and to determine the potential impact with distance from the rental community. They are working on the study now and will be looking at Batavia, Lake Zurich, Woodridge, Naperville and North Aurora. A preliminary report has been made regarding a 70 unit affordable housing complex in Lake Zurich built in 1975. They analyze housing sales for forty-five different homes sold twice over a fifteen-year period. The results for homes between zero to a half of mile from the development had a median annual appreciation of .6%. Six tenths of a mile to a mile had a median annual appreciation of 2.1%. What that means is a \$350,000 within a half a mile from the development after ten years is valued at \$371,000. The same home with the distance of six tenths of a mile to a mile after ten years would be valued at \$421,000. There is almost a \$60,000 difference. He reported that he would have this study done hopefully by the end of next week and will provide the Committee with the data. He stated that he spoke with the Commissioner of the township and was informed that he is not opposed to sidewalks and would support the developer putting sidewalks in. He just will not pay for the sidewalks. It was Mr. Strassman's email on April 25th that said any development having to do with residents would require sidewalks. The City would require sidewalks all along Fabyan and down Allen towards Western Avenue and it is a condition of the City School Board.

Aleksander Romanov stated that the developer discussed the rating on the top and the bottom of the wall but did not mention the whole wall. The top and the bottom of the wall would be R19 insulation rating but there is an R2 rating on the wall making the whole wall insulation rating R3. He suspects that it was an attempt to confuse the Committee. He suggested the Committee double check the numbers for the utility bills because the numbers are suspicious.

Guy Prisco, presented additional 111 signatures from the Holmstad, which brings the numbers to 168 and it is ongoing. He distributed a handout with all of the signatures to the Committee. Prisco shared his background as an architect and has been involved in many projects in the valley. There is an elephant in the room with this project and the elephant is the human side of this project, which seems to be glossed over every time it gets brought up. This project as it is designed and the limitations on it by the historic preservation entities show that it is not feasible for human habitation. He would suggest that anyone supporting this have no idea on the actual condition of living in this project. Some rooms have no windows. You can't live in a place like that.

Rob Burns, distributed a Daily Herald article titled "Batavia Lowers Standards with Apartments." He stated that the information that you received through the Plan Commission (PC) process is dreadfully inadequate. The information has been filtered through the staff of Batavia and the developer. He asked that the Committee dig into this a little further and rely on your own intelligence. He knows that you do not agree with your PC always if not frequently, including the Shodeen project most recently. He asked that you take an independent look. The idea that the traffic study done by the developer agreed to and supported the same study done by the KLOA group. That lie has been going on for the last three and a half months and has been written up in your documents and is an absolute lie. That firm has written their initial study, had to write a second letter when your staff said that the first study agreed with the developer's traffic study

and nothing was farther from the truth. For some reason that second letter did not get published nor given with the other materials given to this group. You could say it was an oversight but there has been several oversights and you have to start to wonder if they are oversights. Today they wrote another letter. They had to write three letters to try to let you know that they disagreed with the first study for three months. Why is that even necessary? There are a lot of things you don't know that you should want to hear prior to the next meeting.

The Committee decided to have the next discussion on this topic on October 10, 2017. Block stated that the questions he heard tonight that needs to be addressed are whether or not SHPO has approved sidewalks and detention in the front, KDOT and IDOT updates particularly on the right in and right out issue, potentially address further concerns regarding the KLOA parking study versus our parking study, and definition of the amenities in the case where the amenities have to move and a soccer field is not feasible what would be other proposals.

7. Resolution 17-103-R: Preliminary/Final Plat of Subdivision, Campana Property, 901 North Batavia Avenue, Evergreen Real Estate Group, Applicant (JLS 9/22/17) CD (continued from 9-19-17)

Motion: To continue discussion on Ordinance 17-59 and Resolution 17-103-R to the COW meeting on October 10, 2017
Maker: Salvati
Second: Cerone
Voice Vote: 9 Ayes, 0 Nays, 5 Absent
Motion carried.

8. Project Status

Newman reported on the following:

- Shodeen will be at the special COW meeting on October 11 for the One Washington Place Conversation.
- City Council members will be interviewed for the branding project. Cudworth discussed the process with the Committee.

9. Other

Salvati discussed a resident's request to replace a tree. He explained that the resident's property backs up to an electrical substation. The substation has been walled in but before it was walled in there was a line of small pine trees and a tree on City property for screening. The tree on City property fell over in a storm. She is asking to have the City replace the tree that fell during the storm. Salvati stated that after consultation with Gary Holm, Holm stated that the tree should not be replaced for the benefit of one person. The 50/50 parkway tree program would not apply here because it would not benefit the general public. Salvati asked if there was any way we could replace this tree. He does not want to set a precedent. This is different because this was on City property and the tree fell down. Holm stated that this is a tree that would only benefit one resident and as a staff position he would not use funds to benefit one homeowner without the direction of City Council. Wolff stated that he has a problem saying yes to this because the tree line that was there is no longer serving the purpose that it was there for. We spent a lot of money to screen the electric substation so we would not have the maintenance of the trees and we would

not have to replace them. Callahan stated that this was a City tree, we could replace a City tree. It doesn't matter if she is benefitting or not. The City is benefitting because we put it there to begin with. If we want to put the tree back to benefit the City then we could. Callahan asked what is the standard that we use to replace a City tree. Newman stated that this tree previously had a purpose that no longer exists. Cerone stated that the Mayor has often spoken on how we have tripled the tree population over the decades and that is a huge benefit to the community. Salvati and Cerone directed staff to replace the tree.

10. Adjournment

There being no other business to discuss, Brown asked for a motion to adjourn the meeting at 11:18pm; Made by Salvati; Seconded by Uher. Motion carried.

Minutes respectfully submitted by Jennifer Austin-Smith