

MINUTES
July 12, 2022
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 7:03pm.

1. Roll Call

Members Present: Chair Wolff; Ald. Miller, Beck, Baerren, Leman, Chanzit (remote), Solfa, Connelly, Cerone, Uher and Vogelsinger (joined at 7:05pm)

Members Absent: Ald. Russotto, Ajazi, Malay

Also Present: Mayor Schielke; Laura Newman, City Administrator; Scott Buening, Director of Community and Economic Development (remote); Drew Rackow, Planner (remote); Gary Holm, Director of Public Works; Andrea Podraza, Senior Civil Engineer; Rahat Bari, City Engineer; and Jennifer Austin-Smith, Recording Secretary (remote)

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

3. Approve Minutes for: May 24, 2022

Motion: To approve the minutes for May 24, 2022

Maker: Uher

Second: Solfa

Roll Call Vote: **Aye:** Uher, Cerone, Miller, Beck, Wolff, Baerren, Leman, Chanzit, Solfa, Connelly

Nay:

10-0 Vote, 4 Absent, Motion carried.

4. Items to be Removed/Added or Changed

None.

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

Charles Buschroe, 318 South Forest Ave, stated he is here to discuss discharge of sump pump water on adjacent properties. He stated that he has two neighbors whose sump pumps are discharges are coming directly on his property. He has given the board information that is in the City Code that speaks to the requirements, illegalities and terms that either the landowner has to connect to the City system or they have to be at least ten feet from an adjacent property. His concern is he needs to know what the City would do to enforce what is in the municipal code. He stated that he has worked with the City staff over the past two and a half years over this issue.

Bari reported that staff has sent a letter to the property owners who are discharging their sump pump into the property stating that they need to connect to the storm system or they need to pull it back ten feet. Nothing has happened. The initial letter was sent in 2020. Staff met with one of the homeowners in April 2022 and informed them the same thing. Another letter was sent in June 2022 indicating that this needs to happen within the next 90 days, otherwise the City would be taking legal action. Buschroe stated that would be acceptable to him. Cerone asked for Buschroe to share his contact information with him so that he could follow-up on this situation.

Scott Hageman, 441 Stewart, stated that he is one of the property owners and introduced Brian McDonald, 431 Stewart to the Committee. Hageman stated that he was here three years ago when his basement flooded. His basement has flooded four times complements to the City of Batavia. When his house was built it was built 18 inches too low. This has been approved back in the Ted Burgenson era. The entire neighborhood has a water problem. He understands their concern, it is a creek to the south of his home and it runs down to Mahoney Creek. It is a normal water flow. He is not going to spend money on something that the City messed up when this home was built almost forty years ago. He has been in the house twenty-eight years. Hagemann asked when was this ordinance instated and if there is a grandfather clause. He shared when he had eighteen inches of water in his basement he was told by the City that the storm sewer could not handle this amount of rain but now the City wants to tie in his and every other sump pump in the neighborhood to a storm sewer that would not be able to handle it. Hagemann stated he and McDonald are okay with the City pulling back the sump pump ten feet on the City's cost.

Brian McDonald stated that his house flooded too because of this situation. He questioned why this is a problem now. Hageman added that when he moved in to that location he was told by the City of Batavia no houses would be built behind him because it was a floodplain and now there are houses. He has spent over fifty thousand dollars in loss repairing his basement caused by the City of Batavia.

Holm asked if Hageman's home has flooded since the City modified the basin on the south side of Pine Street and since we resurfaced and redid the road and curb to redirect surface drainage. Hageman answered that we haven't had a big enough rain in which to see that. Holm noted that the storm in question is the one that happened in 2015 that had major impacts throughout the southeast side of town, which prompted the Ward 1 improvements. Since that time the City has made improvements to detention basins and roadways to direct surface drainage away from the low point that is referenced.

Podraza noted that the area being referenced as a creek is an overland flood route between the houses. Design standards have significantly changed over the course of the years and that is why these houses were not required to connect sump pumps into the storm sewers. All new subdivisions are required to connect their sump pumps into the storm sewer.

Hageman stated that the City could come work on his property to move the sump pump back ten feet and then everyone would be happy. Holm stated that it is staff's recommendation to not perform work on private property for private sump pump lines for the benefit of a private citizen.

6. 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. **Approval: COW Executive Session Meeting minutes May 17, 2022 – Personnel**
- b. **Approval: COW Executive Session Meeting Minutes May 24, 2022 – Probable Litigation**
- c. **Resolution 22-071-R: Accepting a Plat of Dedication of Morton Street (SCB 6/29/22)**

Motion: To approve the Consent Agenda as presented

Maker: Chanzit

Second: Solfa

Roll Call Vote: **Aye:** Chanzit, Connelly, Cerone, Uher, Vogelsinger, Miller, Solfa, Beck, Wolff, Baerren, Leman

Nay:

11-0 Vote, 3 Absent, Motion carried.

7. Ordinance 22-35: Annexing 332 and 342 Evergreen Drive and 1017 and 1033 Walnut Street (SCB 7/5/22) CD

Buening discussed the ordinance with the Committee of the Whole (COW).

Motion: To recommend approval of Ordinance 22-35: Annexing 332 and 342 Evergreen Drive and 1017 and 1033 Walnut Street

Maker: Wolff

Second: Solfa

Roll Call Vote: **Aye:** Wolff, Baerren, Leman, Chanzit, Connelly, Cerone, Uher, Vogelsinger, Miller, Solfa, Beck

Nay:

11-0 Vote, 3 Absent, Motion carried.

8. Ordinance 22-36: Annexing 37W330 McKee Street (SCB 7/7/22) CD

Buening discussed the ordinance with the COW.

Motion: To recommend approval of Ordinance 22-36: Annexing 37W330 McKee Street

Maker: Wolff

Second: Solfa

Roll Call Vote: **Aye:** Wolff, Baerren, Leman, Chanzit, Connelly, Cerone, Uher, Vogelsinger, Miller, Solfa, Beck

Nay:

11-0 Vote, 3 Absent, Motion carried.

9. Resolution 22-076-R: Approving a Preliminary/Final Plat of Subdivision for 950 West Wilson Subdivision. JKLM Land Development, LLC, Applicant (DMR 7/7/22) CD

Rackow discussed the resolution with the COW.

Motion: To recommend approval of Resolution 22-076-R: Approving a Preliminary/Final Plat of Subdivision for 950 West Wilson Subdivision. JKLM Land Development, LLC, Applicant

Maker: Wolff

Second: Connelly

Roll Call Vote: **Aye:** Wolff, Baerren, Leman, Chanzit, Connelly, Cerone, Uher, Vogelsinger, Miller, Solfa, Beck

Nay:

11-0 Vote, 3 Absent, Motion carried.

10. Resolution 22-070-R: Authorizing Task Order #10 with Baxter and Woodman for the GIS Collection of Stormwater for an Amount Not-to-Exceed \$26,239.00 (AMP 7/5/22) CS

Podraza discussed the memo with the Committee. She asked for the ten percent contingency for the scope to finish the remainder of that area.

Motion: To recommend approval of Resolution 22-070-R: Authorizing Task Order #10 with Baxter and Woodman for the GIS Collection of Stormwater for an Amount Not-to-Exceed \$26,239.00

Maker: Wolff

Second: Cerone

Roll Call Vote: **Aye:** Wolff, Baerren, Leman, Chanzit, Connelly, Cerone, Uher, Vogelsinger, Miller, Solfa, Beck

Nay:

11-0 Vote, 3 Absent, Motion carried.

11. Resolution 22-075-R: Authorizing Execution of the Contract for the 2022 Street Resurfacing and Sidewalk Replacement Program with Builders Paving LLC in the Amount Not to Exceed \$1,977,800 Which Includes 10% Contingency Amount Adopt IDOT Resolution (BLRB 14220 Form) to Appropriate \$1,600,000 from the State Motor Fuel Tax (MFT) Fund (RB 7/7/22) CS

Bari discussed the memo with the COW.

Motion: To recommend approval of Resolution 22-075-R: Authorizing Execution of the Contract for the 2022 Street Resurfacing and Sidewalk Replacement Program with Builders Paving LLC in the Amount Not to Exceed \$1,977,800 Which Includes 10% Contingency Amount Adopt IDOT Resolution (BLRB 14220 Form) to Appropriate \$1,600,000 from the State Motor Fuel Tax (MFT) Fund

Maker: Wolff

Second: Cerone

Roll Call Vote: **Aye:** Wolff, Baerren, Leman, Chanzit, Connelly, Cerone, Uher, Vogelsinger, Miller, Solfa, Beck

Nay:

11-0 Vote, 3 Absent, Motion carried.

12. Ordinance 22-15: Amending the Municipal Code Related to Employee Appointments (GH 7/5/22)

Holm reviewed the memo with the Committee. Leman asked for non-gendered language in documents like this or just not use pronouns at all but rather use the title. Holm and Newman agreed. Holm stated that there is archaic language in the Municipal Code. Holm stated that this ordinance could be approved and the scrivener's error correction to the pronouns would still be updated at the staff level. Such change is not changing the substance of the ordinance.

Motion: To recommend approval of Ordinance 22-15: Amending the Municipal Code Related to Employee Appointments

Maker: Wolff

Second: Cerone

Roll Call Vote: **Aye:** Wolff, Baerren, Leman, Chanzit, Connelly, Cerone, Uher, Vogelsinger, Miller, Solfa, Beck

Nay:

11-0 Vote, 3 Absent, Motion carried.

13. Resolution 22-060-R: Authorize Execution of Contract with Polco & National Research Center to Administer the National Community Survey for the City of Batavia (AI 7/7/22) GS

Chanzit reviewed the memo with the COW.

Motion: To recommend approval of Resolution 22-060-R: Authorize Execution of Contract with Polco & National Research Center to Administer the National Community Survey for the City of Batavia

Maker: Chanzit

Second: Beck

Roll Call Vote: **Aye:** Chanzit, Connelly, Cerone, Uher, Vogelsinger, Miller, Solfa, Beck, Wolff, Baerren, Leman

Nay:

11-0 Vote, 3 Absent, Motion carried.

14. Resolution 22-073-R: Authorizing Mayor to Sign Official Response Letter to League of Women Voters of Central Kane County (GH 7/5/22) PU

Holm summarized the memo with the Committee and discussed the response letter to the League of Women Voters of Central Kane County. The Committee discussed output, NIMPA, voting process, percentage of ownership, carbon capture and project report.

Susanne Russo, League of Women Voters of Central Kane County, addressed the COW. Russo stated that she is speaking tonight solely as resident of Batavia. She hopes that tonight's discussion would begin a dialogue with the City of Batavia on the very complex issue of carbon capture retrofit for the Prairie State Power Plant. She understands that there are currently no plans to proceed with a carbon capture retrofit for Prairie State. The draft does imply that a retrofit for Prairie State is possible if funds become available.

Russo stated the word on the street is that Prairie State is very aggressively seeking Federal infrastructure funds to finance a retrofit project. There is a real probability that a request to proceed with a carbon capture project at Prairie State will be brought to the NIMPA Board. When that happens, what role will the City of Batavia have in making this decision? And the timelier question is how will Batavia prepare itself to have a role? She has very serious concerns about the use of carbon capture systems on coal burning power plants like Prairie State. She is concerned about the financial cost. The operation of a carbon capture system at Prairie State will cost hundreds of millions of dollars each year. What kind of impact will that have on Batavia taxpayers and for how long would Batavia be held liable for this annual cost? Construction costs for the carbon capture system are estimated to be two billion dollars. If the funding is too low would Prairie State turn to its owners for the funds to complete the project? Other financial concerns include: the cost of transporting captured carbon to other sites, costs to sequester captured carbon, and the creation of even more coal and ash pits that will need costly mitigation when Prairie State finally closes down. Now is the time to determine what will be Batavia's responsibility for these potential costs.

Russo expressed concern about the environmental and health effects of a carbon capture retrofit that include the leeching of heavy metals and other toxins from the coal ash pits, the dangers of pipelines, the dangers of injecting significant quantities of captured carbon into underground caverns, the use of captured carbon to extract currently unusable crude oil and the possibility that a carbon capture retrofit would be used as a justification to continue operating Prairie State beyond the ramp down and closure dates set out in the Climate and Equitable Jobs Act. She stated that if carbon capture is brought to the NIMPA board, Batavia could work to ensure that NIMPA approves the plan only on the condition that 100% renewable energy would be used to power the carbon capture retrofit. These discussions need to begin now and they need to become continuous.

The Committee discussed next steps. Holm read an excerpt stating the only way that carbon capture would be considered by Prairie State's owners is if a third party developer is willing to finance such a project and if congress makes substantial changes to the federal tax policies. The owners have made it very clear that they are not funding such a project. The only way a project would proceed forward is if a third party developer is willing to finance such a project. Holm stressed the burden would not fall on NIMPA or the other eight owners. Despite the word on the street, Holm is not aware of any infrastructure bill lobbying to get funds for carbon capture. He is aware of lobbying to push and change the incentives for the 45Q tax credits. Such tax credits would enable a private developer to come in to take advantage of those tax credits to have the project move forward. Without a tax credit, it makes it not financially feasible for a third party to even consider the project.

Motion: To recommend approval of Resolution 22-073-R: Authorizing Mayor to Sign Official Response Letter to League of Women Voters of Central Kane County
Maker: Cerone
Second: Uher
Roll Call Vote: **Aye:** Cerone, Uher, Vogelsinger, Miller, Solfa, Beck, Wolff, Baerren, Leman, Chanzit, Connelly
Nay:
11-0 Vote, 3 Absent, Motion carried.

15. Resolution 22-072-R: Authorizing Execution of a Contract with Raucci and Sullivan LLC (LN 7/7/22) GS

Newman discussed the memo with the Committee.

Motion: To recommend approval of Resolution 22-072-R: Authorizing Execution of a Contract with Raucci and Sullivan LLC
Maker: Wolff
Second: Solfa
Roll Call Vote: **Aye:** Wolff, Baerren, Leman, Chanzit, Connelly Cerone, Uher, Vogelsinger, Miller, Solfa, Beck
Nay:
11-0 Vote, 3 Absent, Motion carried.

16. Project Status

Newman reported on the following:

- Notice was received from Lauren Underwood's office that the grant for relocation of the food pantry will be voted on in the House and Senate at the level of three million dollars
- The City would be receiving an Illinois EPA grant to replace lead service lines within our community
- The Police Department have made enhancements to make people safe at our events such as the fireworks and Windmill Festival. These enhancements were appreciated by the public.
- New entryway signs will be on Route 31 this year
- Work continues on the Water Treatment Plant
- Sewer repairs have been ongoing in preparation for the upcoming resurfacing project
- The new electrical engineer has started with the City and now the City's electrical department is fully staffed
- McKee and Wilson will be connected with the parking lot improvements

17. Other

Mayor Schielke stated that one of the things Batavia should consider is engaging Batavia in a special census.

Solfa stated that some residents in the Ward who live along Kirk Road were wondering if they could have an extension above the existing wood fence. Buening answered that depending on what they do it is usually considered a fence extension. They are allowed to have a fence eight

feet along an arterial roadway. If they want to go higher than that they would have to get a variance.

Chanzit shared that Pride month was a great success and thanked City Council for their leadership. He shared many people are approaching him with gratitude for what the City has done. He thanked the Council for their continued support.

Solfa asked if there was a City ordinance about the number of domestic pets one could have. Buening answered the City of Batavia allows for four dogs, eight hens with a coop permit, and four cats.

18. Adjournment

There being no other business to discuss, Chair Wolff asked for a motion to adjourn the meeting at 8:56pm; Made by Solfa; Seconded by Cerone. Motion carried.

Minutes respectfully submitted by Jennifer Austin-Smith, Recording Secretary