

MINUTES
July 26, 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 (joined at 7:06pm), Russotto, Beck, Connelly, Chanzit, Solfa, Baerren, Leman, Ajazi, Uher, Cerone

Members Absent: Ald. Malay and Vogelsinger

Also Present: Mayor Schielke; Laura Newman, City Administrator; Kevin Drendel, Legal Counsel; 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 (remote); and Jennifer Austin-Smith, Recording Secretary (remote)

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

3. Items to be Removed/Added or Changed

None.

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

None.

5. 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. **Revised Resolution 22-048-R: Authorizing an Intergovernmental Agreement Between the City of Batavia and County of Kane for household Hazardous Waste Collection Services (SH 7/20/22)**

Motion: To approve the Consent Agenda as presented

Maker: Chanzit

Second: Solfa

9. Resolution 22-074-R: Authorizing the Sale of Municipally Owned Real Estate at 916 Park Street (SCB/SMJ 7/14/22) CD

Rackow discussed the memo with the Committee.

Motion: To recommend approval of Resolution 22-074-R: Authorizing the Sale of Municipally Owned Real Estate at 916 Park Street

Maker: Wolff

Second: Miller

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

Nay:

12-0 Vote, 2 Absent, Motion carried.

10. Resolution 22-078-R: Authorizing Agreement with Fathom Media to Upgrade CC AV Equipment (HC 7/21/22) CS

Chason discussed the resolution with the Committee.

Motion: To recommend approval of Resolution 22-078-R: Authorizing Agreement with Fathom Media to Upgrade CC AV Equipment

Maker: Russotto

Second: Cerone

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

Nay:

12-0 Vote, 2 Absent, Motion carried.

11. Resolution 22-079-R: Approving a Contract with QP Testing to Perform Cherry Park Substation Testing for an Amount Not to Exceed \$30,030 Which Includes 10 Percent Contingency Amount (RB 7/20/22) PU

Bari discussed the resolution with the Committee. Cerone noted that this is under budget.

Motion: To recommend approval of Resolution 22-079-R: Approving a Contract with QP Testing to Perform Cherry Park Substation Testing for an Amount Not to Exceed \$30,030 Which Includes 10 Percent Contingency Amount

Maker: Cerone

Second: Uher

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

Nay:

12-0 Vote, 2 Absent, Motion carried.

12. Resolution 22-080-R: Approving a Contract with OSI to Provide Hardware and Software Upgrade to the City's Electric SCADA System for an Amount Not-to-Exceed \$277,347 Which Includes 10 Percent Contingency Amount (RB 7/20/22) PU

Holm reported on the resolution. He noted that the budgeted amount was \$360,000 and this falls below the budgeted amount.

Motion: To recommend approval of Resolution 22-080-R: Approving a Contract with OSI to Provide Hardware and Software Upgrade to the City's Electric SCADA System for an Amount Not-to-Exceed \$277,347 Which Includes 10 Percent Contingency Amount

Maker: Cerone

Second: Uher

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

Nay:

12-0 Vote, 2 Absent, Motion carried.

13. Resolution 22-081-R: Authorizing a Contract with Electric Conduit Construction to Install Underground Conduit Along 680 Kingsland Ave for an Amount Not-to-Exceed \$37,573 Which Includes 10 Percent Contingency (RB 7/20/22) PU

Cerone summarized the memo with the Committee.

Motion: To recommend approval of Resolution 22-081-R: Authorizing a Contract with Electric Conduit Construction to Install Underground Conduit Along 680 Kingsland Ave for an Amount Not-to-Exceed \$37,573 Which Includes 10 Percent Contingency

Maker: Cerone

Second: Uher

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

Nay:

12-0 Vote, 2 Absent, Motion carried.

14. Resolution 22-082-R: Authorizing A Contract with Electric Conduit Construction to Install Underground Conduit Along 470 N Randall Ave for an Amount Not to Exceed \$28,070 Which Includes 10 Percent Contingency (RB 7/20/22) PU

Holm discussed the resolution with the Committee.

Motion: To recommend approval of Resolution 22-082-R: Authorizing A Contract with Electric Conduit Construction to Install Underground Conduit Along 470 N Randall Ave for an Amount Not to Exceed \$28,070 Which Includes 10 Percent Contingency

Maker: Cerone

Second: Uher

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

Nay:

12-0 Vote, 2 Absent, Motion carried.

15. Discussion: Government Center Island Avenue Parking

Holm discussed the Government Center Island Avenue Parking with the Committee. He shared his screen to present the following:

- City Hall Monument Area Landscape by Upland Design Ltd.
- Landscape without Parking
- Landscape Plan with Parking

Holm stated that all options would require new landscaping along the foundation of the building.

The consensus of the Committee was to move forward with more landscaping without parking.

16. Discussion: Home Rule Authority to Regulate the Sale of Certain Types of Weapons and Ammunition – City Attorney Kevin Drendel

Chair Wolff announced that the Committee of the Whole (COW) is not going to take any action on this tonight. The COW would like to hear from our City Attorney on the legal opinion regarding Home Rule Authority on the sale of types of weapons and ammunition. The COW will not be voting on an ordinance tonight, we do not have an ordinance prepared.

Kevin Drendel, City Attorney, addressed the Committee. He stated that the issue being discussed tonight is not a Constitutional issue, it is a Home Rule issue. The City of Batavia is a Home Rule entity, which means that we don't depend upon the legislation for our authority to act. We derive our authority to act directly from the Constitution, which gives us broader authority to enact laws than non Home Rule communities, which only derive their authority from the legislature, don't have. There is some exception to that, the main one being where the State Law Legislature has chosen to preempt local authority. The issue we have for us in considering whether to regulate weapons is whether we are preempted.

Drendel discussed state legislature (FOID Card Act and Conceal and Carry), guidance and case laws with the COW. The Committee discussed neighboring community ordinances, mental health concerns, and legal implications. Chair Wolff opened the floor for public comment.

Howard Miller addressed the COW. He shared he is a Vietnam era veteran. He is a former drafting and architectural teacher at the Batavia High School. He shared he has five grandchildren attending schools in the district. We are concerned about the children's safety while they are in school. We must do all that we can to prevent gun violence. There are many of us who agree that the step that can or should be taken is banning the sales of assault weapons and multi-capacity ammunition clips. These weapons have no place in untrained, civilian hands. They were designed for one purpose, and one purpose only, to be used by the military to kill as many of the enemy as possible. As the International Association of Chiefs of Police stated, "The IACP has been a strong supporter of the assault weapons bans since 1992 and our membership has approved reauthorizations of support in the years since. The membership has taken this action because we, as law enforcement executives, understood that the criminal use of semi-automatic assault weapons pose a great risk to our officers and the communities they are sworn to protect." Miller discussed his participation in Brady, united against gun violence, with the COW. Miller stated that the key part of what Brady believes is take action; don't take sides. This

is not a republican or democratic issue; it is a human issue and the safety of our children and our communities.

Mike Langston addressed the Committee. Langston stated that he is greatly impressed with the discussion that has gone on tonight. It was open and reasonable. The legal guidance by the City Attorney was on point. At this stage of time, we have ample information to consider what the next step would be.

Dean Perle addressed the COW. He stated that on many levels what was done at the many shooting incidents were illegal on top of being insane by criminals. He asked by adding more laws to the books how do you figure how you are going to slow those people down. Most people realize that there is no way to totally stop an insane person from running amok and hurting or killing other people. Putting another law in place, making it illegal to sell these types of guns, is not going to do anything to make him or his grandchildren any safer. None of these laws that are already in place seem to be doing it. Are making new laws really the answer or do we have to go in another direction. There is a mental, sociopathic, insanity issue. He asked the COW to read the second amendment very closely to ensure you understand word for word what that says. He asked the COW to keep that in mind when attempting to create new laws and ensure that you are not infringing on that.

Brian Nallenweg addressed the Committee. He shared he was a police officer in Batavia for twenty-six years. He is, like you, sickend every time he reads of innocent lives lost due to the illegal actions of a criminal. He believes the other 2.2 million residents with FOID cards in this state are equally appalled. This is 2.2 million people out of the state's 12.67 million population. Roughly 17% of Illinois residents own firearms based on these numbers (from the census bureau and/or the State Police). He is here to tell the Committee that the 17% are not the problem. Please do not punish us. Many of these law abiding citizens own AR15 style rifles. He initially that that this discussion was an ordinance to ban the possession and has been corrected. The problem with this is if you ban the sale of firearms and/or ammunition that leaves the door open to ban the possession of them. Overnight you would make criminals out of those who own these popular rifles. He continued that the AR15, AR standing for ArmaLite and not Assault Rifle, was sold to civilians starting in 1964. This weapon has been around for 58 years and you have to ask yourself what has changed in the past 58 years where people are shooting up shopping malls and parades. An ordinance that arbitrarily bans certain fire arms or the sales of firearms would create criminals out the law abiding, gun owning citizens.

Nallenweg shared one thing he has learned in his twenty-nine years experience in law enforcement is criminals do not obey laws. Make all the laws you want and they will not obey them. Chicago and Cook County already have assault weapons bans, as has Highland Park since 2013. Chicago and Cook County have some of the strictest gun laws in the Country. Based on Chicago Police Department statistics, they reported sixty-four shot last weekend, five fatally. Based on the strict gun laws they have the City of Chicago should be a utopian paradise. Unfortunately, it is not because criminals do not obey nor do they respect the law. He offered to answer any questions about firearms in the future.

Dustin Pieper addressed the COW remotely. He stated that the gun violence is historically an American problem. He shared how Australia reduced their gun capacity in their country. He questioned if they could do it, why can't us. The argument on whether criminals would obey this, naturally they wouldn't but so much of their capability to have firearms is an availability issue. The previous speakers pointed out that Cook County has fairly strict gun laws for American standards but still has a lot of violence, it is worth pointing out that Cook County is also close to the states of Indiana and Wisconsin, which have fairly lax gun laws. It is very easy to get guns into that area without too much hassle. Us as a municipality could only do so much but at the end of the day sometimes it takes small local action to start a movement towards broader national action. Us making a stand here would likely help with moving that grassroots energy towards a broader societal change. He is not against all guns, shotguns and standard rifles have important and useful purpose in everyday life from hunting to protection from dangerous animals to fairly standard recreation. At the end of the day, that is not what we are talking about here. It is the higher capacity rifles and fast repeating rifles. He discussed Canada's restrictions on higher capacity weapons while being lax on rifles and shotguns. It is not a broad against weapons mentality but it is firm acknowledgement that some weapons are more dangerous than others and could be more easily misused. Reducing accessibility is going to be necessary, as we have seen in many other countries.

Nallenweg stated that in Illinois you have to have a FOID card to purchase a weapon. If he were to go to Indiana, Wisconsin or any neighboring states to purchase a firearm he is still required to fill out an ATF Form 4473 that the gun shop is required to submit a background check before he is allowed to leave the store with a weapon. Illinois has a 72-hour waiting period to be able to purchase a firearm. Miller commented that when the sales of assault weapons were restricted gun violence went down. When the law was not renewed due to a sunset clause the gun violence went up. He asked the COW to look further into this data.

Beck discussed the need for more reading and research on the options, future discussion on the vision for the City of Batavia, finding groups that are working on gun safety issues to hear what creative solutions they are working on and the need for future discussion on this matter. Beck stated that from the discussion tonight regarding Home Rule it appears that this part of the discussion is over. She asked for someone to join her with the request to have a future discussion on gun safety issues with representatives from these groups to tell us what other options are out there as a next step. Leman stated that she would like to have a future discussion on this. But in regards to the Home Rule and possible legal fees, she does not want this to be a money issue where we are talking about budget holding us back from a discussion. If this is something that we want to move forward with, money should not be the thing that would hold us back from discussing. Solfa stated that the discussion tonight was about the legal perspective, which the City Attorney did a great job laying out. Future discussions on the general topic could be held at a different time but that is not what is being discussed tonight.

There was no action suggested by the Committee at this time. Chair Wolff asked for future discussion on this be held in September to allow time for research and inviting local groups to a future COW.

17. Project Status

Newman reported on the following:

- Meeting with the Library Board is scheduled for August 23, 2022
- The City had applied for a spot as part of the pilot project for operationalizing DEI in the workplace. We received notice that we were successful in our application and we will be joining that program for the next six months
- The community survey process is beginning
- The Strategic Plan updates are available on our webpage and social media

18. Other

Miller asked for an update on the Park District discussion on the dam. Newman stated that they are waiting on the report from Hitchcock Design Group that they had contracted for a side project. Newman will report on the status. Chair Wolff asked when the Illinois Department of Natural Resources (IDNR) dam removal expiration would be. Newman answered it is any given budget.

Solfa asked about garbage stickers on the east side of Batavia. He asked that someone be brought in to a COW meeting to explain. Newman noted that Chris Rooney, District Manager for Waste Management, was in attendance. Rooney introduced Vaughn Kershner, Public Sector Representative for the City of Batavia.

Kershner stated that, right now, we have seven vendors and most are on the west side of the river. There is one on the east side. They have been working hard trying to find more vendors. Walgreens stopped selling stickers because they changed their operation systems. The Shell at 200 Fabyan is interested in selling stickers and Kershner is meeting with him on Thursday to get him set up. Former sticker vendors on the east side have decided not to sell because they are frustrated with the whole process. There are no added sales for them because usually residents just come in to buy the stickers. They are not interested in tracking the inventory or the extra 2% they could charge for the credit card because that does not cover the extra expense for credit cards. Kershner stated that he would continue to work on adding new vendors. He distributed a list of current vendors to the COW.

Beck asked if the City of Batavia is participating in the text 911 program. Shawn Mazza, Deputy Chief of Operations, answered yes you can text 911. It has been in effect for at least eighteen months now. Not many people participate in it but there is that capability to text a dispatch center. Newman stated that the public would be educated on the Code Red program where the public could sign up for text message notification.

Cerone asked about the road diet. Newman stated she would have Rahat Bari, City Engineer, give an update on that at the next COW meeting. We are currently reviewing what was received back from the Illinois Department of Transportation (IDOT).

19. Adjournment

There being no other business to discuss, Chair Wolff asked for a motion to adjourn the meeting at 9:15pm; Made by Solfa; Seconded by Uher. Motion carried.

Committee of the Whole
July 26, 2022
Page 9

Minutes respectfully submitted by Jennifer Austin-Smith, Recording Secretary