

CITY OF BATAVIA

DATE: April 27, 2018
TO: Committee of the Whole-CD
FROM: Scott Buening, Community Development Director
SUBJECT: Ordinance 18-30 Requesting Transfer of Certain Parcels from the Batavia Park District and Resolution 18-59-R Authorizing the Transfer of Property to the Batavia Park District

Summary: Approval of Ordinance 18-30 Requesting Transfer of Certain Parcels from the Batavia Park District and Resolution 18-59-R Authorizing the Transfer of Property to the Batavia Park District.

Background: The City and Batavia Park District (District) have been working on clarifying the boundaries of the land ownership around City Hall and the Peg Bond Center. The Island Avenue roadway vacation recently acted on was part of that clarification. Several land swaps are being proposed in this vicinity that would put land in the proper jurisdiction. In particular, it puts land where the Peg Bond Center, playground and certain trails into District ownership. At the same time, the City would obtain the access drive to Riverrain, as well as have a larger lot area surrounding the City Hall building.

The attached Ordinance causes the City to request transfer of District properties to the City. The Resolution authorizes transfer of certain properties from the City to the District and also authorizes an Intergovernmental Agreement that memorializes the transfer. The District would be passing similar a similar Ordinance and Resolution at the same time to request the land swaps.

After these have been passed by both the City and the District, we would forward a plat of subdivision (City Hall-Peg Bond Center Subdivision) to the Plan Commission for recommendation. Once this is forwarded and approved by the City Council, the land swap will be complete.

The City does have utilities running through this area, so we would reserve an easement over the lots for access and maintenance of these utilities.

Alternatives:

1. Approve of Ordinance 18-30 Requesting Transfer of Certain Parcels from the Batavia Park District and Resolution 18-59-R Authorizing the Transfer of Property to the Batavia Park District.
2. Do not approve of the Ordinance and Resolution.
 - a. **Pros-** Approving the Ordinance and Resolution would allow the land swap to proceed. Several parcels have been in the hands of the City and District and should be owned by the other entity. This clarifies the land boundaries more distinctly. This also reduces the City's liability as we own a number of parcels that have been actively managed by the District.
 - b. **Cons-** The City would lose direct control over the areas conveyed.

c. **Budget Impact-** The survey and plat of the area cost \$5,510.00 and additional fees for recording the plat will be incurred (approximately \$100.00). These amounts are being split with the District.

d. **Staffing Impact-** No staff impact.

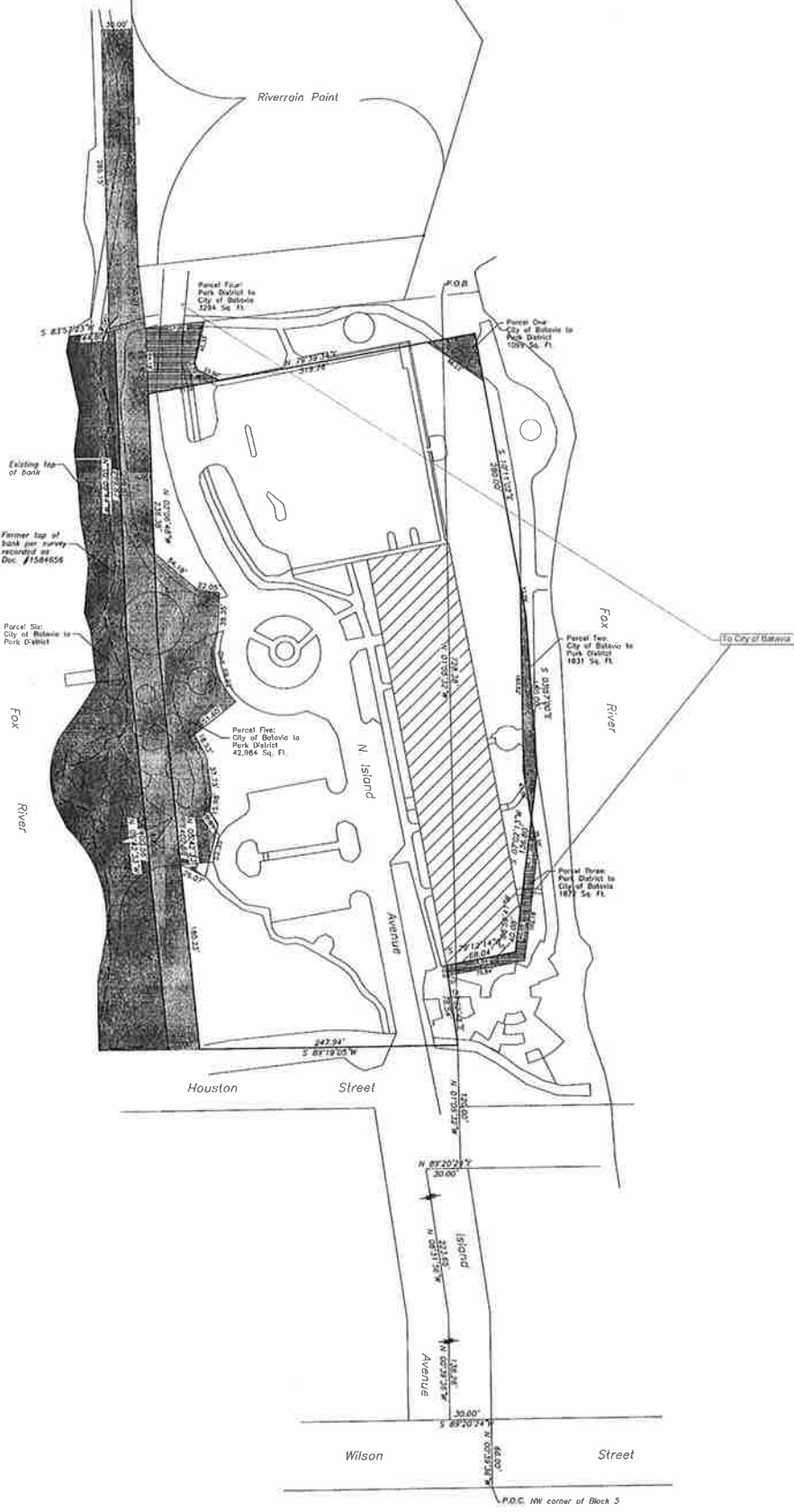
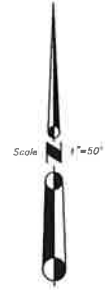
Timeline for actions: This does not have a specific timeline, but the Ordinance and Resolution are needed before the plat can be considered by the Plan Commission.

Staff recommendation: Approval of Ordinance 18-30 Requesting Transfer of Certain Parcels from the Batavia Park District and Resolution 18-59-R Authorizing the Transfer of Property to the Batavia Park District.

Attachments:

1. Ordinance 18-30 Requesting Transfer of Certain Parcels from the Batavia Park District.
2. Resolution 18-59-R Authorizing the Transfer of Property to the Batavia Park District.
3. Map showing land transfers.
4. City Hall-Peg Bond Center Subdivision plat.

PLAT OF PROPERTY



DATE PREPARED: JANUARY 10TH, 2018.
REVISED FEBRUARY 14TH, 2018.

SHAWN R. UHMKAMPEN
ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 2710
LICENSE EXPIRATION DATE: NOVEMBER 30TH, 2018

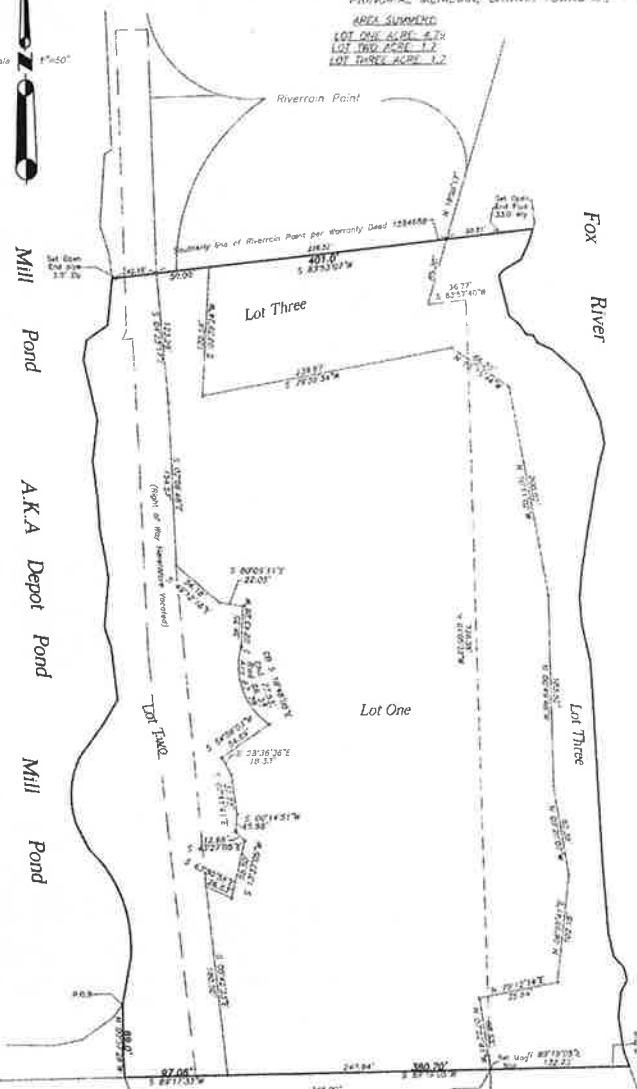
Prepared by:
W.E. Hanna Surveyors
License No. 184007413
308 Pine Street
O'Keefe, Illinois 60115
(815) 756-2180
Fax 748-2532
info@hannasurveyors.com

FOR: CITY OF BATAVIA
JOB NO. WES 14240

FINAL PLAT OF CITY HALL-PEG BOND CENTER SUBDIVISION

A SUBDIVISION OF PART OF THE NORTHEAST QUARTER OF
SECTION 22, TOWNSHIP 39 NORTH, RANGE 3 EAST OF THE THIRD
PRINCIPAL MERIDIAN, BATAVIA TOWNSHIP, KANE COUNTY, ILLINOIS

ENROLL NUMBERS: 17-22-001-011
17-22-002-012
17-22-003-013



Owner of Lot 1
STATE OF ILLINOIS }
COUNTY OF KANE }
I, _____, do hereby certify that the City of Batavia, Illinois is the owner of part of the land described in the foregoing Subdivision Certificate and has caused the same to be surveyed and subdivided as aforesaid as shown by the annexed plat for the uses and purposes therein set forth as allowed and provided by statute. The subdivision is known as CITY HALL-PEG BOND CENTER SUBDIVISION and does hereby acknowledge and accept the same under the title and title agreement said premises are located in Batavia School District No. 101

DATED THIS _____ DAY OF _____ 201__

BY: NAME: ZEFF SCHULTZ
TITLE: MAYOR
CITY OF BATAVIA
100 N. ISLAND AVE
BATAVIA, IL 60110

WITNESSES: NAME: ILEEN POLIZANO
TITLE: CITY CLERK

STATE OF ILLINOIS }
COUNTY OF KANE }
I, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE COUNTY AND STATE AFORESAID, DO HEREBY CERTIFY THAT THE ABOVE ARE SUBSCRIBED TO THE FOREGOING PROCEEDINGS BY THE OFFICERS APPOINTED BEFORE ME THIS DAY, IN PERSON AND ACKNOWLEDGED THE EXECUTION OF THE ANNEXED PLAT AND ACCOMPANYING INSTRUMENT AS THEIR OWN FREE AND VOLUNTARY ACT AND AS THE FREE AND VOLUNTARY ACT OF SAID CITY OF BATAVIA.

GIVEN UNDER MY HAND AND NOTARIAL SEAL THIS _____ DAY OF _____ 201__

NOTARY PUBLIC

Owner of Lot 2 and Lot 3
STATE OF ILLINOIS }
COUNTY OF KANE }
I, _____, do hereby certify that the Batavia Park District is the owner of part of the land described in the foregoing Subdivision Certificate and has caused the same to be surveyed and subdivided as aforesaid as shown by the annexed plat for the uses and purposes therein set forth as allowed and provided by statute. The subdivision is known as CITY HALL-PEG BOND CENTER SUBDIVISION and does hereby acknowledge and accept the same under the title and title agreement said premises are located in Batavia School District No. 101

DATED THIS _____ DAY OF _____ 201__

BY: NAME: PATRICK J. COLLINGS
TITLE: PRESIDENT
BATAVIA PARK DISTRICT
327 N. WILSON STREET
BATAVIA, IL 60110

WITNESSES: NAME: KEVIN RELEY
TITLE: SECRETARY

STATE OF ILLINOIS }
COUNTY OF KANE }
I, THE UNDERSIGNED, A NOTARY PUBLIC, IN AND FOR THE COUNTY AND STATE AFORESAID, DO HEREBY CERTIFY THAT PATRICK J. COLLINGS, PRESIDENT AND KEVIN RELEY, SECRETARY OF THE BATAVIA PARK DISTRICT, WHO WERE LAWFULLY ELECTED TO THE FOREGOING OFFICES AS SAID OFFICERS, APPOINTED BEFORE ME THIS DAY, IN PERSON AND ACKNOWLEDGED THE EXECUTION OF THE ANNEXED PLAT AND ACCOMPANYING INSTRUMENT AS THEIR OWN FREE AND VOLUNTARY ACT AND AS THE FREE AND VOLUNTARY ACT OF SAID BATAVIA PARK DISTRICT.

GIVEN UNDER MY HAND AND NOTARIAL SEAL THIS _____ DAY OF _____ 201__

STATE OF ILLINOIS }
COUNTY OF KANE }
I, _____, CLERK OF KANE COUNTY, ILLINOIS, DO HEREBY CERTIFY THAT THE ABOVE ARE SUBSCRIBED TO THE FOREGOING PROCEEDINGS AND NO PROSECUTION HAS BEEN INSTITUTED AGAINST ANY OF THE LAND DESCRIBED HEREIN.

I FURTHER CERTIFY THAT I HAVE RECEIVED ALL STATUTORY FEES IN CONNECTION WITH THE PLAT DEPICTED HEREON.

GIVEN UNDER MY HAND AND SEAL OF THE COUNTY CLERK AT GENEA, KANE COUNTY, ILLINOIS THIS _____ DAY OF _____ A.D., 201__

COUNTY CLERK

STATE OF ILLINOIS }
COUNTY OF KANE }
THIS INSTRUMENT NO. _____ WAS FILED FOR RECORD IN THE RECORDER'S OFFICE OF KANE COUNTY, ILLINOIS, ON THE _____ DAY OF _____ 201__ AT _____ O'CLOCK _____ AND WAS RECORDED IN PLAT ENVELOPE NO. _____

COUNTY RECORDER

STATE OF ILLINOIS }
COUNTY OF DEKALB }
I, _____, do hereby certify that I, DANIEL J. VANDERKAM, ALIQUOT PROFESSIONAL LAND SURVEYOR NO. 2710, HAVE SURVEYED AND SUBDIVIDED THAT PART OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 3 EAST OF THE THIRD PRINCIPAL MERIDIAN, BATAVIA TOWNSHIP, KANE COUNTY, ILLINOIS, AS SHOWN BY THE ANNEXED PLAT FOR THE USES AND PURPOSES THEREIN SET FORTH AS ALLOWED AND PROVIDED BY STATUTE. THE SUBDIVISION IS KNOWN AS CITY HALL-PEG BOND CENTER SUBDIVISION AND DOES HEREBY ACKNOWLEDGE AND ACCEPT THE SAME UNDER THE TITLE AND TITLE AGREEMENT SAID PREMISES ARE LOCATED IN BATAVIA SCHOOL DISTRICT NO. 101.

I FURTHER CERTIFY THAT THE ATTACHED PLAT IS A TRUE AND CORRECT REPRESENTATION OF SAID SURVEY AND SUBDIVISION. ALL DISTANCES SHOWN IN FEET AND DECIMALS THEREOF. THAT THE PROPERTY HEREON SHOWN AND DESCRIBED IS WITHIN THE CORPORATE LIMITS OF THE CITY OF BATAVIA, WHICH IS EXERCISING THE FULL POWERS OF A CITY AND THAT SAID PROPERTY SHOWN IS LOCATED IN ZONES "R1" AND "R2" AS SET FORTH BY THE PARK TOWNSHIP ORDINANCE HAVING AN EFFECTIVE DATE OF AUGUST 200, 2005.

DATED AT DEKALB, ILLINOIS THIS 13TH DAY OF APRIL, 2018.

DANIEL J. VANDERKAM
ALLOTT PROFESSIONAL LAND SURVEYOR NO. 2710
LICENSE EXPIRES: NOVEMBER 30TH, 2018

Approved By:
W.E. HAYASHI, Secretary
Kane County Board of Supervisors
405 20th Street
Batavia, Illinois 60115
(815) 266-2176
Fax: 788-2332
www.kane-county.org

STATE OF ILLINOIS }
COUNTY OF KANE }
APPROVED AND ACCEPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BATAVIA,
KANE COUNTY, ILLINOIS, AT A MEETING HELD ON THE DAY OF _____ 201__

BY: _____
MAYOR
CITY CLERK

STATE OF ILLINOIS }
COUNTY OF KANE }
REVIEWED BY THE CITY OF BATAVIA PLAN COMMISSION AT A MEETING HELD THE _____ DAY OF _____ 201__ A.D.

TOM LALORGE
PLAN COMMISSION CHAIRMAN

STATE OF ILLINOIS }
COUNTY OF KANE }
APPROVED BY THE CITY ENGINEER FOR THE CITY OF BATAVIA ON THIS _____ DAY OF _____ 201__ A.D.

TAMM BARRI
CITY ENGINEER

FOR: CITY OF BATAVIA
JOB NO. WES 142485U



**CITY OF BATAVIA, ILLINOIS
ORDINANCE 18-30**

**ORDINANCE REQUESTING THE TRANSFER OF CERTAIN PARCELS OF REAL
ESTATE FROM THE BATAVIA PARK DISTRICT PURSUANT TO THE LOCAL
GOVERNMENT PROPERTY TRANSFER ACT**

**ADOPTED BY THE
MAYOR AND CITY COUNCIL
___ DAY OF _____, 2018**

Published in pamphlet form
by authority of the Mayor
and City Council of the City of Batavia,
Kane & DuPage Counties, Illinois,
This ___ day of _____, 2018

Prepared by:

City of Batavia
100 N. Island Ave.
Batavia, IL 60510

**CITY OF BATAVIA, ILLINOIS
ORDINANCE 18-30**

**ORDINANCE REQUESTING THE TRANSFER OF CERTAIN PARCELS OF REAL
ESTATE FROM THE BATAVIA PARK DISTRICT PURSUANT TO THE LOCAL
GOVERNMENT PROPERTY TRANSFER ACT**

WHEREAS, the Corporate Authorities of the City of Batavia (the “City”) have determined that it is necessary and convenient for it to use, occupy, and improve the parcels of real property owned by the Batavia Park District (the “Park District”) identified as follows for municipal purposes (the “Park District Parcels”):

Parcel Three consisting of 1872 square feet depicted on the plat of survey attached hereto and incorporated herein as Exhibit A (the “Plat of Survey”); and

Parcel Four consisting of 3294 square feet depicted on the Plat of Survey; and

WHEREAS, the Corporate Authorities of the City desire the Board of Trustees of the Park District to convey the Park District Parcels to the City, pursuant to the authority conferred by the Local Government Property Transfer Act, 50 ILCS 605/0.01 *et seq.*; and

WHEREAS, the Park District desires to acquire, and the City is willing to transfer, in exchange for the Park District Parcels, the following parcels of real property owned by the City depicted on the Plat of Survey (the “City Parcels”):

Parcel One consisting of 1099 square feet;

Parcel Two consisting of 1831 square feet;

Parcel Five consisting of 42,984 square feet; and

Parcel Six; and

WHEREAS, the Corporate Authorities of the City desire to have the Parcels transferred by the subdivision of the separate parcels into the larger parcels of property owned by each the City and the Park District as provided in the proposed final plat of subdivision attached hereto and incorporated herein by reference as Exhibit B (the “Final Plat of Subdivision”) according to the terms and conditions of the intergovernmental agreement attached hereto and incorporated herein by reference as Exhibit C (the “Agreement”) for each parties’ respective uses for their respective public purposes;

NOW, THEREFORE, BE IT ORDAINED by the Corporate Authorities of the City of Batavia, Kane County, Illinois, as follows:

CITY OF BATAVIA, ILLINOIS ORDINANCE 18-30

Section 1: The foregoing recitals are hereby incorporated herein as findings of the Corporate Authorities of the City.

Section 2: The City hereby declares the necessity and convenience for it to use, occupy, and improve the Park District Parcels to be acquired in exchange for the City Parcels pursuant to the terms and conditions of the Agreement by signing and recording a plat of subdivision in substantial compliance with the Preliminary Plat of Subdivision, to be approved through the usual and customary subdivision process by the City.

SECTION 3. This Ordinance shall be in full force and effect upon its presentation, passage and publication according to law.

PRESENTED to and **PASSED** by the City Council of the City of Batavia, Illinois, this ____ day of _____, 2018.

APPROVED by me as Mayor of said City of Batavia, Illinois, this this ____ day of _____, 2018.

Jeffery D. Schielke, Mayor

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	O'Brien					Salvati				
2	Callahan					Wolff				
3	Meitzler					Chanzit				
4	Malay					Stark				
5	Uher					Theлин Atac				
6	Cerone					Russotto				
7	McFadden					Brown				
Mayor Schielke										

VOTE: ____ Ayes ____ Nays ____ Absent ____ Abstentions Total holding office: Mayor and 14 aldermen

ATTEST:

Ellen Posledni, City Clerk

**CITY OF BATAVIA, ILLINOIS
RESOLUTION 18-59-R**

**A RESOLUTION AUTHORIZING THE TRANSFER OF PROPERTY
FROM THE CITY OF BATAVIA
TO THE BATAVIA PARK DISTRICT**

WHEREAS, the Batavia Park District (the “Park District”) is organized for the purposes of owning, operating, and maintaining a system of public parks and open spaces, and the territory of the Park District lies within the corporate limits of the City of Batavia (the “City”); and

WHEREAS, the City owns the property described in Plat attached hereto and incorporated herein by reference as Exhibit A identified as follows therein (Transfer Property):

Parcel One consisting of 1099 square feet depicted on Exhibit A;

Parcel Two consisting of 1831 square feet depicted on Exhibit A;

Parcel Five consisting of 42,984 square feet depicted on Exhibit A

Parcel Six depicted on Exhibit A; and

WHEREAS, the Park District is, more or less simultaneously, passing and approving an ordinance declaring that it is necessary or convenient for the Park District to use, occupy, and improve the Transfer Property for public purposes and requesting that the City transfer the Transfer Property to the Park District, all in accordance with the provisions of the Illinois Local Government Property Transfer Act, 50 ILCS 605/0.01, *et seq.* (Property Transfer Act); and

WHEREAS, the Mayor and City Council desire to transfer the Transfer Property to the Park District, pursuant to the authority conferred by the Property Transfer Act by approval of a Plat of Subdivision that is in substantially the same as the proposed Final Plat of City Hall-Peg Bond Center Subdivision attached hereto and incorporated herein by reference as Exhibit B (the “Plat of Subdivision”), which would become Lot Two and Lot three as shown on the Plat of Subdivision; and

WHEREAS, the parties have negotiated an agreement to govern the terms of the simultaneous transfer of property pursuant to the terms and conditions contained in the document attached hereto and incorporated herein by reference as Exhibit C (the “Transfer Agreement”).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Batavia, Kane and DuPage Counties, Illinois, as follows:

SECTION 1: Recitals. The foregoing recitals are hereby incorporated into this Resolution as findings of the Mayor and City Council.

SECTION 2: The Mayor and City Council hereby (a) approve transfer of the Transfer Property to the Park District pursuant to the Transfer Agreement, (b) authorize and direct the Mayor to execute and the City Clerk to attest the Transfer Agreement, (c) authorize and direct the Director of Community Development or his designee(s) to obtain approval of the Plat of Subdivision through the usual and customary subdivision process, (d) authorize and direct the Mayor to

execute and the City Clerk to attest the Final Plat of Subdivision for recording after the Plat of Subdivision has been reviewed by the City Plan Commission and is approved by the City Council, and (e) authorize the City Administrator, Director of Community Development, or their authorized designee(s), to obtain the additional signatures required on the Final Plat of Subdivision, to record the Final Plat of Subdivision and take all other necessary and appropriate actions, in conjunction with the necessary and appropriate actions of the Park District, to transfer all of the City's rights and title in the Transfer Property to the Park District, and to acquire the property being transferred from the Park District.

Section 3. Effective Date. This Resolution will be in full force and effect from and after its passage by a vote of two thirds of the members of the City Council now holding office and approval.

PRESENTED to and **PASSED** by the City Council of the City of Batavia, Illinois, this ____ day of _____, 2018.

APPROVED by me as Mayor of said City of Batavia, Illinois, this ____ day of _____, 2018.

Jeffery D. Schielke, Mayor

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	O'Brien					Salvati				
2	Callahan					Wolff				
3	Meitzler					Chanzit				
4	Malay					Stark				
5	Uher					Thelin Atac				
6	Cerone					Russotto				
7	McFadden					Brown				
Mayor Schielke										
VOTE:		Ayes	Nays	Absent	Abstentions					
Total holding office:		Mayor and 14 aldermen								

ATTEST:

Ellen Posledni, City Clerk

EXHIBIT A
PLAT

EXHIBIT B
AGREEMENT

**AN AGREEMENT FOR TRANSFER OF PROPERTY
BY THE BATAVIA PARK DISTRICT
TO THE CITY OF BATAVIA**

THIS AGREEMENT (Agreement) is dated as of _____, 2018 (Execution Date) and is made by the City of Batavia, an Illinois municipal corporation (City), and the Batavia Park District, an Illinois park district (Park District).

Section 1. Recitals

A. The Park District owns parcels of real estate described in the Plat attached hereto and incorporated herein by reference as Exhibit A identified as follows therein (Park District Property):

Parcel Three consisting of 1872 square feet depicted on the Plat of Survey attached hereto and incorporated herein as Exhibit A; and

Parcel Four consisting of 3294 square feet depicted on Exhibit A.

The City desires to acquire the Park District Property for road and other public purposes and related improvements to be maintained or built on the Park District Property, and the Park District is willing to convey the Park District Property to the City.

B. The City owns parcels of real estate described in the Plat attached hereto and incorporated herein by reference as Exhibit A identified as follows therein (City Property):

Parcel One consisting of 1099 square feet depicted on Exhibit A;

Parcel Two consisting of 1831 square feet depicted on Exhibit A;

Parcel Five consisting of 42,984 square feet depicted on Exhibit A

Parcel Six depicted on Exhibit A; and.

The Park District desires to acquire the City Property for park and other public purposes and related improvements to be maintained or built on the City Property, and the City is willing to convey the City Property to the Park District.

C. The City and the Park District have the authority to complete this mutual transfer of parcels of real estate identified above (collectively the "Transfer Property") under the Illinois Local Government Property Transfer Act, 50 ILCS 605/0.01, et seq., and the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1, et seq.

Section 2. Transfer of Transfer Property

The parties desire to affect the transfer of the Park District Property to the City and the City Property to the Park District by subdivision by which the Park District Property shall be incorporated with existing property currently owned by the City comprising Lot One in the

Preliminary Plat of City Hall-Peg Pond Center Subdivision, a copy of which is attached hereto and incorporated herein by reference as Exhibit B (the "Preliminary Plat of Subdivision") and the City Property shall be incorporated with the existing property currently owned by the Park District comprising Lot Two and Lot Three in the Preliminary Plat of Subdivision.

Upon the approval of a Final Plat of Subdivision through the usual and customary subdivision process by the City, providing that the Final Plat of Subdivision is in substantially the same form as the Preliminary Plat of Subdivision, and the recording of the Final Plat of Subdivision, the Park District Property shall become and shall be dedicated and transferred to the City as part of Lot One of the Final Subdivision Plat, and the City Property shall become and shall be dedicated and transferred to the Park District as part of Lot Two and Lot Three of the Final Plat of Subdivision.

The Park District and City hereby agree to take all necessary and appropriate actions under the Property Transfer Act to transfer the City Property to the Park District and the Park District Property to the City pursuant the approval, signing and the recording of the Final Plat of Subdivision in keeping with the terms and conditions of this Agreement.

Section 3. Title Insurance

Either or both parties shall be free to obtain title insurance as the parties determine is necessary and appropriate for the City Property by the Park District and the Park District Property by the City, respectively, at each parties' cost.

Section 4. Costs

The City and the Park District each will execute and deliver to the other such items as may be reasonably requested to consummate the transfer of the Transfer Property and for each party to obtain title insurance as each party determines, including but not limited to execution of all necessary forms from the Title Company, including without limitation a Gap Undertaking and an ALTA Statement. The costs relating to the preparation of the documents and the recording shall be shared by the parties, and the costs to obtain title insurance shall be borne by each party, separately, for the parcels being acquired by the party seeking title insurance.

Section 5. No Real Estate Taxes

The acknowledge and agree that the Transfer Property currently is exempt from real estate taxes because of its ownership by the Park District and city, respectively, and, therefore, no real estate taxes should be due or payable by either party.

Section 6. Terms and Conditions Related to Transfer Property

Both parties to this Agreement shall have a perpetual, continuing license of ingress, egress and access in and from, over, through and across the respective lots for the public purposes of both parties.

The City shall have a blanket easement in, under and over Lot Two and Lot Three for utility and drainage purposes, providing that the easement does not materially and adversely affect the

Park District's use of Lot Two and Lot Three for park purposes, and further providing that the City shall restore the easement area to its original condition after any work is done by the City.

Section 7. General Provisions

A. Governing Law. This Agreement is governed by and enforced in accordance with the internal laws of, but not the conflicts of laws rules of, the State of Illinois.

B. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the acquisition by the City of the Transfer Property and the other matters stated in this Agreement, and this Agreement supersedes every prior agreement and negotiation between the parties, whether written or oral, relating to the subject matter of this Agreement.

C. Incorporation of Exhibit. Exhibit A attached to this Agreement are incorporated into and made a part of this Agreement by this reference.

D. Amendments and Modifications. No amendment or modification to this Agreement will be effective unless and until it is reduced to writing and approved and executed by all parties to this Agreement in accordance with all applicable statutory procedures.

E. No Third-Party Beneficiaries. No claim as a third-party beneficiary under this Agreement by any person, firm, or corporation may be made, or be valid, against any of the parties.

Section 8. Patriot Act

The City and the Park District each represents and warrants that it is not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by the United States Treasury Department as a Specially Designated National and Blocked Person, or for or on behalf of any person, group, entity, or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; and that it is not engaged in this transaction directly or indirectly on behalf of, or facilitating this transaction directly or indirectly on behalf of, any such person, group, entity, or nation.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Execution Date.

BATAVIA PARK DISTRICT

CITY OF BATAVIA

By _____, its _____

By Jeffery D. Schielke, its Mayor

Attest:

Attest:

By _____, it _____

By Ellen Posledni, its City Clerk