

MINUTES
February 26, 2019
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.

Chair Brown called the meeting to order at 7:04pm.

1. Roll Call

Members Present: Chair Brown; Ald. Russotto, Atac, Stark, Chanzit, Wolff, Salvati, O'Brien, Callahan, Meitzler, Uher, Cerone, McFadden

Members Absent: Alderman Malay

Also Present: Mayor Schielke (entered at 8:24pm); Laura Newman, City Administrator; Gary Holm, Director of Public Works; Peggy Colby, Director of Finance; Scott Buening, Director of Community Development; Joel Strassman, Planning and Zoning Officer; Chris Aiston, Economic Development Consultant; Chris Cudworth, Communications Coordinator; Anthony Isom, Assistant to the City Administrator; Howard Chason, Director of Information Systems; Jeff Albertson, Building Commissioner; Rahat Bari, City Engineer; and Jennifer Austin-Smith, Recording Secretary

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

3. Approve Minutes for February 12, 2019

Motion: To approve minutes for February 12, 2019
Maker: Chanzit
Second: Cerone
Voice Vote: 13 Ayes, 0 Nays, 1 Absent
Motion carried.

4. Items Removed/Added/Changed

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

5. Public Hearing: 7:05pm Annexation Agreement for Property Located at 2500 and 37W330 McKee Street

The Public Hearing was called to order at 7:05pm. There were no comments from the public.

Motion: To close the Public Hearing
Maker: Stark
Second: Cerone

Voice Vote: 13 Ayes, 0 Nays, 1 Absent
Motion carried.

The Public Hearing was closed at 7:06pm.

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

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

7. Winding Creek, 2500 and 37W330 McKee Street, M/I Homes of Chicago, LLC, applicant (JLS 2/21/19) CDC

a. Ordinance 19-06: Authorizing the Execution of an Annexation Agreement

b. Ordinance 19-07: Amending the Comprehensive Plan

Stark summarized the memo. Strassman noted that the exhibit for the fees will be available for the March 18th Council review or staff could be directed to return for further discussion at the next Committee of the Whole (COW) meeting. The Comprehensive Plan Amendment needs to be approved this evening and then at the 3-4-19 City Council meeting.

Greg Collins, MI Homes, presented a PowerPoint presentation regarding Winding Creek. The presentation included the following information:

- Parcels
- Site Data
 - 69 acres
 - Single family (113) and townhomes (88), total of 201 homes
- Site plan with typical lot detail
- Single Family and Townhome elevation illustrations
- 20 acres of Open Space
- Existing cell tower remains
- Bridge connection
- Stormwater design

The COW discussed the proposed project, bridge connection, storm water run off, and storm water design. The consensus of the Committee was to review the exhibit for the fees prior to the City Council meeting and there is no need to meet about this at the future COW meeting.

Motion: To recommend to City Council approval of Ordinance 19-06: Authorizing the Execution of an Annexation Agreement

Maker: Uher

Second: Salvati

Voice Vote: 13 Ayes, 0 Nays, 1 Absent
Motion carried.

Motion: To recommend to City Council approval of Ordinance 19-07: Amending the Comprehensive Plan

Maker: Uher

Second: Salvati

Discussion was held on the motion. Chair Brown requested that a sign be placed where the bridge is going to be notifying residents of the future road connection and bridge. Stark concurred.

Voice Vote: 13 Ayes, 0 Nays, 1 Absent
Motion carried.

8. Resolution 19-026-R: Authorizing Execution of Design Engineering Services Agreement with Crawford, Murphy and Tilly, Inc. for an amount not to exceed \$379,204.32 for the Prairie Street Improvements Project (2/21/2019 TG) CS

Wolff summarized the memo. Bari overviewed the project with the Committee. The Committee discussed the funding of this project. Wolff opened the floor for public comment.

Mary Beth Stevens, South Prairie Street, shared she owns three parcels at the end of South Prairie. She is concerned about the safety when you get to the end of South Prairie and Pine. Additionally, you are giving away our on-street parking and that would cause issues with UPS and mail service trucks. The bikes should have a place to go but that corner is dangerous. The cars do not stop now and it is unsafe. She is really concerned about the parking being taken away and the difficulty guests would face to walk to her house in the winter. It is a long walk and there is often snow on the sidewalks during the winter.

Motion: To recommend to City Council approval of Resolution 19-026-R: Authorizing Execution of Design Engineering Services Agreement with Crawford, Murphy and Tilly, Inc. for an amount not to exceed \$379,204.32 for the Prairie Street Improvements Project

Maker: Uher

Second: Callahan

Voice Vote: 13 Ayes, 0 Nays, 1 Absent
Motion carried.

9. Discussion: Decision to Proceed with Remediation of Environmental Contamination on the One North Washington Redevelopment Site (LN 2/22/19)

Newman reported that under the redevelopment agreement the City had the responsibility to the developer taking possession of the redevelopment site that the City would demolish all of the buildings and provide the developer a remediated site. The City took samples and it was discovered that there was contamination, acidic soils and lead in the soil. The field of contamination identified would cost an excess of \$350,000 to remediate the site and place the soils in a special landfill. The Redevelopment Agreement called for the parties to sit down and discuss that matter. Many meetings have been had to discuss how to remediate the site and move forward with the project. The TIF area of the project has a finite time and if we continue with the project we would like to begin the project as soon as possible and take as short of time as possible so we could get the incremental tax value to pay off the bond payments. Both parties concurred that we could save money and time by having the developer come in right away to complete the demolition on the site and also complete the remediation plan in conjunction with their overall excavation of the site. Newman discussed the Environmental Indemnification Agreement that the bank is requiring the City to provide the developer. The updated

Redevelopment Agreement states that the developer will be responsible for the demolition, excavation and remediation of the site and it revises the original timelines to reflect where we are at today.

The COW discussed the remediation. Chanzit asked if this is an off-ramp to the redevelopment agreement. David Patzelt, Shodeen, stated that it is an off-ramp but they are not taking it. We are interested and want to continue forward. The COW discussed the bond repayment, responsible parties, and the Special Service Area (SSA). Callahan stated that this project does pay for itself. The financial benefit for this project is that this is an unexpected cost that must be paid by the City no matter what. Here is a remedy or a means for revenue to pay for that instead of residents. Wolff added that the payment would come out of the TIF or the backup SSA.

Chair Brown opened the floor for public comment.

Sylvia Keppel, 1420 Becker Ave, reported that it is stated in the memo that there is a possibility that another project can go there that would not tap into the contaminated soil and not take three quarters of the block. There is that possibility. She stated that if the Committee chooses against the remediation agreement that there is an off ramp for this project. There is no cost to tax payers if you get out now and there are other possibilities for that area that are not so grandiose. Shodeen has pushed the City to the time limit and she does not want the City to be in a rush to make a decision. She asked the Committee to not make hurried decisions like with Prairie State. Aurora is in a mess due to Shodeen. She asked what point would Shodeen be given the property. Newman answered that it would be before they start the demolition and excavation and it will be close in time that the building permit is issued. Keppel asked what happens if there are more glitches. Newman stated that as part of the belt and suspenders is there is a construction bond on the project and in addition to that the developer is required to maintain insurance on the entire project. Keppel asked if the LLC folds. Newman answered that all of those are obligations that would go to whomever becomes the owner of that property. Keppel asked that the City consider waiting until after 4-2-19 elections and the new Council is seated. There are three aldermen leaving, please postpone the vote on this until after 4-2-19.

Chair Brown stated that it is to his understanding that Shodeen did not push the Council to the last minute on this project. Staff and the developer have been working on this project. Chair Brown stated that the suggestion of pushing the vote back until after the 4-2-19 election would not behoove the City because those sitting on this Council have more knowledge about this project than would a newly elected individual. Keppel stated that she would feel better if the City had a third party involved. Chair Brown noted that a third party consultant would be working the excavation of the contaminated soil on the site. Holm overviewed the remediation action plan and how Shodeen would seek out bids with the City's involvement. A third party would represent the City out in the field.

Keppel asked that the Closed Session minutes for this project be released. Newman explained that these meeting minutes cannot be released because of underlying property transactions and we have not conveyed the property at this point so it would be inappropriate to release them at this time. Chanzit stated after the transaction is complete the minutes would be reviewed again to be released. Newman agreed.

Charlie Corie, 1311 Town Avenue, asked what is the cost of this that is on the table. Newman answered that the environmental consultant gave an estimate of the cost between \$395,000-590,000, which represents the cost to excavate the material and take the material to a special landfill. Stark explained that there would be a third party for the labor and excavation. Corie asked if there would be any additional charges. Newman stated that there would be no additional charges. Callahan explained that this way is a more efficient use of time, the developer could do the project and excavation.

Kevin Callahan, 81 Madison Street, stated remediation has to be done and will be required no matter what. He asked is there something in place to monitor the areas around remediation sites. He wants to ensure we keep things away from the water system and prevent migration of contaminated soils. He asked if there would be an extra cost or who would be responsible for it. Holm explained that the remediation action plan addresses erosion control and runoff. This particular site has lead contamination. Lead is a heavy metal and would not migrate through the ground. All those things are in the remediation action plan.

Dave Patzelt noted that there is the option to leave the contaminated soil there but that does not relieve the City of the liability. Now that we know that it is there and something were to happen there may be additional consequences for failing to do anything about it.

10. Ordinance 19-11: Environmental Indemnification Agreement One Washington Place (LN 2/22/19) CDC

Motion: To recommend to Council approval of Ordinance 19-11: Environmental Indemnification Agreement for One Washington Place

Maker: Chanzit

Second: McFadden

Roll Call Vote: **Aye:** Chanzit, Wolff, Salvati, Brown, O'Brien, Callahan, Meitzler, Uher, Cerone, McFadden, Russotto, Atac, Stark

Nay: None

13-0 Vote, 1 Absent, Motion carried.

11. Ordinance 19-12: Second Amended and Restated Redevelopment Agreement for One Washington Place (LN 2/22/19) CDC

Motion: To recommend to Council approval of Ordinance 19-12: Second Amended and Restated Redevelopment Agreement for One Washington Place

Maker: Chanzit

Second: McFadden

Discussion was held on this motion. Callahan stated it is important to remember that while we had a tied vote on One Washington Place before, this is a respect to the democratic process that we took a vote on the merits of those points and while he was on the losing side you do not use past votes as incrimination or a way to try to get your way after the point. Dave Brown should be sitting here as part of the vote because he has been seated on this Council the entire time. It is

very concerning to him when we do not allow people to speak to try to change votes after they are already made. Callahan continued that they should be made on the merits of the legislation and the policy that is before us. That is fundamental democracy. To do anything otherwise is to subvert the will of what we are all here to do, which is represent people. Callahan expressed that he still sticks with this former decision based on what was going on with that but there is a new point before us and we have a responsibility as a community to clean up poisons that were left in the soil by others before us. Now that we know what is in the soil it is our obligation to fix it. If there is an obligation to fix it, we should do it in the most fiscally responsible manner. Which in this case, because we have a project and we will remediate it and we have a repayment mechanism that will not be a burden on the current residents it is the just thing to do and what we should be doing.

Roll Call Vote: **Aye:** Chanzit, Wolff, Salvati, Brown, O'Brien, Callahan, Meitzler, Uher, Cerone, McFadden, Russotto, Atac, Stark
 Nay: None
 13-0 Vote, 1 Absent, Motion carried.

12. Ordinance 19-10: An Ordinance Authorizing the City of Batavia, of Kane and DuPage County, Illinois, to Borrow Funds from the Water Pollution Control Loan Program (PC 2/22/19) GS

Atac summarized the memo. Colby explained that this would not change the way we are repaying the loan, it just changes the criteria that the IEPA is used. She explained that the IEPA is used to issuing loans strictly to water and sewer, they are not used to cities contributing their General Fund money for repayment. The IEPA preferred us to fix the ordinance.

Motion: To recommend approval of Ordinance 19-10: An Ordinance Authorizing the City of Batavia, of Kane and DuPage County, Illinois, to Borrow Funds from the Water Pollution Control Loan Program
Maker: Meitzler
Second: Russotto
Voice Vote: 13 Ayes, 0 Nays, 1 Absent
 Motion carried.

13. Presentation: Annual Update Report – Finance and IT

Colby presented a PowerPoint presentation on the 2018 Year End Numbers. The presentation included the following information:

- 2018 Total Spending
- 2018 Revenues
- 2018 Spending Comparison
- 2018 Revenue Comparison
- 2018-2017 General Fund Comparison
- Outstanding Debt as of 12-31-18
- Batavia General Fund Comparison to Others
- Finance Department Accomplishments 2018
- Goals 2019

Colby noted that the auditors will be visiting tomorrow and asked the Committee to review the email she sent to them and for them to then respond to the auditors. She explained that there is a minimum response percentage needed from the Council.

Howard Chason presented a PowerPoint presentation on the Information Systems Department year-end report. The presentation included the following:

- Information Systems Services
- Application Portfolio
- Prioritization of Resources
- Current Accomplishments
- Current Year Projects
- Pending Projects
- Short Term Challenges
- Future Considerations

14. Project Status

Newman reported on the following:

- At the last meeting Chief Deicke was talking about renewing our agreement with the Batavia Fire Protection District and there was a question about an outlier area on the map that was by Tanner Road and Deerpath Road. Newman reported that it should not have been included as part of the Batavia Fire Protection District because it is actually part of the North Aurora Fire District.
- 2019 Restaurant week will be March 17-21
- Permits for interior renovation of Target has been received
- Work is continuing on the Windmill Landing site
- Permits have been issued for the Nagle Industrial Park spec buildings
- Continuing to review permits for MetroNet installations, three underground and three overhead permits are in active review right now
- Former Avenue Chevy site had a Public Hearing on the plan proposal for Raising Caine's restaurant on February 20th and received unanimous approval and will be on the March 5th COW agenda
- Funway had a revised Design Review meeting on February 20th for signage changes and changes to the exterior façade and were unanimously approved by the Plan Commission
- Work is continuing on the downtown restaurants: Bocaditos, Oak and Swine, and Riverside Pizza restaurant
- The wind storm broke the windmill outside of City Council chambers in the plaza

15. Other

Chanzyt noted that the parking lot to the south of the Target is in very bad shape. Mayor Schielke stated that most of that area is privately owned and operated.

16. Adjournment

There being no other business to discuss, Chair Brown asked for a motion to adjourn the meeting at 9:18pm; Made by Salvati; Seconded by Stark. Motion carried.

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Minutes prepared and submitted by Jennifer Austin-Smith, Recording Secretary, on March 14, 2019.