

MINUTES
April 9, 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 7:00pm.

1. Roll Call

Members Present: Chair Brown; Ald. Russotto, Atac (entered at 7:01pm), Stark, Wolff, Salvati, O'Brien, Callahan, Meitzler, Malay, Uher, Cerone, McFadden

Members Absent: Alderman Chanzit

Also Present: Laura Newman, City Administrator (entered at 7:07pm); Shawn Mazza, Deputy Chief of Administration, Batavia Police Department; Jeff Albertson, Building Inspector; Scott Haines, Street Superintendent; Rahat Bari, City Engineer; Gary Holm, Director of Public Works; Scott Buening, Director of Community Development; Chris Aiston, Economic Development Consultant; Drew Rackow, Planner; and Jennifer Austin-Smith, Recording Secretary

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

3. Approve Minutes for March 19, 2019

Motion: To approve minutes for March 19, 2019
Maker: Uher
Second: Malay
Voice Vote: 12 Ayes, 0 Nays, 2 Absent
Motion carried.

4. Items to be Removed/Added/Changed

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

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

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

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. **Ordinance 19-27: Amending the Official Zoning Map for 1430 Cherry Drive and 1360 Giese Road City of Batavia, Applicant (DMR 4/3/19)**
- b. **Resolution 19-047-R: Authorization to Purchase One 2019 Ford F250 Truck from Landmark Ford, Inc. for \$36,613.00 (SH 3/27/19) CS**
- c. **Resolutions 19-039-R, 19-040-R, 19-041-R, 19-042-R, 19-043-R, 19-044-R, 19-045-R: Requesting permits from IDOT for closure of various radways for 2019 special events (GH 4/2/19) CS**
- d. **Ordinance 19-29: Declaring surplus property (SH 4/3/19)**
- e. **Resolution 19-036-R: Authorizing the Purchase of Three (3) Police Department Patrol Vehicles for \$101,775 (SRM 3/25/19) CS**

Motion: To recommend to City Council approval of the Consent Agenda as presented
Maker: Stark
Second: Meitzler
Voice Vote: 12 Ayes, 0 Nays, 2 Absent
Motion carried.
CONSENT AGENDA

* Alderman Atac entered at 7:01pm.

7. Resolution 19-049-R: Authorization for Creation of a City of Batavia Gateway Improvement Program (CA/LN 4/4/19) CD

Chris Aiston presented a PowerPoint presentation titled ‘Consider Creating a Pilot Gateway Improvement Program Grant Program: GIP’ and discussed the following information:

- Purpose of the Proposed GIP
- Program Boundaries
- Considerations (Eligible Funding Activities)
- Proposed Grant Specifics (50/50 Matching Grant)
- Proposed Funding Source (existing CDAP funds)
- Direction asked for how much you want budgeted for the first year of pilot program

Stark suggested including Route 25 in the program so that the landscaping could become more conforming. The buildings would look so much better if there were proper landscaping in front of them. Chair Brown stated that he is in support of this program but he is not in favor of including signage in this program. He explained that a business could go out of business or move and take the signage with them. Aiston suggested that monument signs be included in this program because it is an aesthetic improvement. Brown agreed because the monument sign would stay and the business name could easily be changed if needed.

The Committee discussed budgeting. O’Brien asked if this funding would be renewable. Aiston answered that once the money is depleted it would not be replenished. Newman noted that the pop-up chalet idea would be funded through existing CDAP funds.

Motion: To recommend to City Council approval of Resolution 19-049-R: Authorization for Creation of a City of Batavia Gateway Improvement Program for a term of two years with a 150,000 budget

Maker: Stark

Second: Meitzler

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

Aiston noted that he would revise the resolution exhibit because he will have to change the corridor to include South River Street. He will also set the budget in the document and it will be ready for the upcoming City Council meeting.

8. Discussion: Renewing and Amending the Boundary Agreement Between the City of Batavia and the Village of North Aurora (SCB 3/19/19) CD

Buening showed the Committee a slide of the proposed boundary with North Aurora because the boundary agreement is up to expire along with the boundary agreement with Sugar Grove IL. The Fox Valley Park District property is to be annexed into North Aurora. Buening overviewed the boundary lines with the Committee and discussed the benefits of amending the boundary lines including saving money by not providing services. He explained that in areas that North Aurora already has utilities in that area it makes most sense for North Aurora to service these areas.

The COW directed staff to move forward with this as it is laid out.

9. Discussion: Renewing and Amending the Boundary Agreement Between the City of Batavia and the Village of Sugar Grove (SCB 4/2/19) CD

Buening showed the Committee the boundary line and the proposed line. He noted that a big portion is forest preserve.

The COW directed staff to continue moving on this.

10. Discussion: Short Term Rentals Enforcement Status (SCB 3/19/19) CD

Stark summarized the memo. Buening overviewed the short-term rentals enforcement with the COW. The COW discussed the following topics: Conditional Use, Administrative Use Permit, Bed and Breakfast benefits, fire code issues, noise ordinances, problem houses (noting that one problem house has been since sold), notification requirements, and protection for renters.

Andrew Frankie, 701 Viking Drive, addressed the Committee and thanked the Committee for bringing this up for discussion. He agrees that Bed and Breakfasts are positive for the community. He noted that he emailed the City Council his thoughts on this a couple of weeks ago. He rents out his apartment to businessmen from all around the world. His guests/renters are all people spending money into our town; there is no tax burden onto our society or more children added into the education system. He lives directly next to the apartment he rents out. He noted that if he rented to someone permanently there is a big chance there would be a child entering into the school system, which would end up costing the community more money. He

continued that he was told the conditional use permit would take up to four months for the application process, a sign would need to be put in his front yard and a letter would have to be mailed to all of his neighbors informing them of the conditional use. He feels this is a little excessive. He understands the need for permitting, taxes, and fees but this is a little over the top. He asked what are other towns doing. He feels that the ordinance the City has was copied from another town that was lobbied by the hotel industry. Batavia does not have any hotels or motels so we are not competing with anyone or taking business away from anyone. The strict regulations and monitoring of fire alarm systems do not apply to long term rentals than why would it apply to short term rentals. He stated that he would have to take the path of least resistance and give up on the Air B and B and rent out permanently, possibly costing the City more money with children entering the school system.

Frankie asked some questions about the ordinance:

- There is a 3% tax on short-term rentals. A lot of his rentals have been more than thirty days. Does he not pay the 3% tax then?
- There is verbiage in the ordinance regarding insurance. The City requires a million dollar insurance policy. Air B&B does carry a million dollar liability policy. Does the City accept that policy or does he have to get an additional policy?

Nancy Hohmyer, 415 Maple, shared that she has two bedrooms in her home and she never rents them out to anyone unless she is there. This is not a private apartment. Most of the people interested in renting from her have family who live in the area or grew up in the area. Sometimes she has someone who stays there while looking for an apartment or housing nearby. The average ages of her renters are from 50-70 years old. Most stay three to five days. There is no noise, no street parking, and nothing she could see that would bother her neighbors. If she would have to do all of the modifications the City requires it would not make sense for her to continue renting. Those who stay look for places to eat in the area. She does have some insurance but not the extent the City has required. The guests she has are vetted through Air B&B and she does additional vetting if necessary.

Uher stated that he would support dropping some of the requirements and maybe the fee but we have to do better than several months to approve the conditional use permit. Buening stated that the Conditional Use Permit covers not only this but the regulations so we can't compress the time due to notices, and clearing process. Buening stated that whether or not the COW would like to require a conditional use is another question. We could do it differently where we would require an administrative use permit but right now our code requires it as a conditional use. Callahan stated that he would prefer that because these are the types of options that we want to encourage. For the sheer fact that we do not have a hotel here the more people we could have stay that are vetted that we want to make sure they are here in our community more and spending their time and money here. We have the laws and rules in the books that deal with problem situations and it would be no different than someone who wanted to have friends stay at their house and come and go at their will and that is not regulated. We do have noise ordinances, littering and enforce those laws and encourage what we really want is these types of business to flourish and create more options in our community. Wolff stated that he would like to see an administrative use permit and revisit this in a year to see how it is working.

Buening stated that he would change the use from conditional use to an administrative use permit. Staff would need to go back to the Plan Commission and conduct a Public Hearing to amend the Zoning Code to change that. Short-term rentals would continue to operate as they had and staff would change the fire code issues. The COW asked staff to investigate about insurance. Stark suggested creating a Home Share Ordinance to include in the code. Callahan noted that the City of Los Angeles has a Home Share Ordinance the City could review.

11. Ordinance 19-28: Amending the Text of the Zoning Code (DMR 4/3/19) CD

This discussion was tabled until the April 23, 2019 COW meeting.

12. Resolution 19-046: Approving the Final Plat of Subdivision for Prairie Commons First Re-Subdivision (DMR 4/4/19) CD

Stark overviewed the memo.

Motion: To recommend to City Council approval of Resolution 19-046: Approving the Final Plat of Subdivision for Prairie Commons First Re-Subdivision

Maker: Stark

Second: Salvati

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

CONSENT AGENDA

13. Resolution 19-033-R: Authorizing Execution of the Contract with Performance Construction & Engineering, LLC for the 2019 Ward 1 Storm Sewer Reconstruction – Phase 2 for an amount not-to-exceed \$1,443,712.60 (TG 4/02/19) CS

Wolff overviewed the memo. Expected completion of this project is August 30, 2019. Bari discussed the project with the Committee.

Motion: To recommend to City Council approval of Resolution 19-033-R: Authorizing Execution of the Contract with Performance Construction & Engineering, LLC for the 2019 Ward 1 Storm Sewer Reconstruction – Phase 2 for an amount not-to-exceed \$1,443,712.60

Maker: Wolff

Second: O'Brien

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

14. Resolution 19-034-R: Authorizing Execution of Task Order #3 for Construction Engineering with Baxter & Woodman, Inc. for an amount not-to-exceed \$108,645.00 (TG 04/02/19) CS

Motion: To recommend to City Council approval of Resolution 19-034-R: Authorizing Execution of Task Order #3 for Construction Engineering with Baxter & Woodman, Inc. for an amount not-to-exceed \$108,645.00

Maker: Wolff

Second: O'Brien

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

15. Resolution 19-050-R: The Construction Contract for the 2019 Stream Restoration: Mahoney Creek Tributary at Woodland Hills and Mahoney Creek at Wilson Street with C&H Excavating, Inc. in the amount not-to-exceed \$248,029.10 (AP 04/05/2019) CS

Bari discussed the project with the Committee. One location for this project is Mahoney Creek at Woodland Hills where the creek makes a sharp bend it erodes the bank of the creek and it is dangerously close to the road. The City applied for grants for this project in 2014 and 2015 and unfortunately did not receive those grants. The other location for this project is Mahoney Creek at Wilson. This project is to control the erosion problems.

Newman announced the engineering department is going to hold an open house event on Tuesday, April 23rd from 6pm-7pm in the Fox River conference room to discuss the Mahoney Creek tributary at Woodland Hills and also to the Mahoney Creek at Wilson.

Motion: To recommend to City Council approval of Resolution 19-050-R: The Construction Contract for the 2019 Stream Restoration: Mahoney Creek Tributary at Woodland Hills and Mahoney Creek at Wilson Street with C&H Excavating, Inc. in the amount not-to-exceed \$248,029.10

Maker: Wolff

Second: Cerone

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

16. Resolution 19-051-R: Authorizing Execution of Task Order #5 for Construction Engineering Services with Engineering Resource Associates in the amount not-to-exceed \$23,651.00 (AP 04/05/19) CS

Motion: To recommend to City Council approval of Resolution 19-051-R: Authorizing Execution of Task Order #5 for Construction Engineering Services with Engineering Resource Associates in the amount not-to-exceed \$23,651.00

Maker: Wolff

Second: Salvati

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

17. Resolution 19-053-R: Authorizing an IGA with Batavia Park District for City-Wide Creek Improvements and Maintenance (AP 04/05/19) CS

Bari explained that the Park District is financially partnering with the City.

Motion: To recommend to City Council approval of Resolution 19-053-R: Authorizing an IGA with Batavia Park District for City-Wide Creek Improvements and Maintenance

Maker: Wolff

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

18. Resolution 19-048-R: Authorizing a Change Order for the 2019 Sidewalk and Curb Replacement Program with Schroeder & Schroeder, Inc. for \$37,500 (CB 4/1/19) CS

Wolff summarized the memo.

Motion: To recommend to City Council approval of Resolution 19-048-R: Authorizing a Change Order for the 2019 Sidewalk and Curb Replacement Program with Schroeder & Schroeder, Inc. for \$35,000

Maker: Wolff
Second: O'Brien
Voice Vote: 13 Ayes, 0 Nays, 1 Absent
Motion carried.

19. Resolution 19-052-R: Authorizing Execution of a One-Year Renewable Contract for 2019 Brush Collection Services (SH 4/3/19) CS

Haines reported that the City received two bidders: Trees R Us and Kramer Tree Specialists. They both are represented tonight. The bid document used is similar to St. Charles and Geneva and is per dwelling unit basis that way every year we could reevaluate that. Trees R Us was low per dwelling unit at \$3.97 with Kramer Tree Specialists at \$4.08. Haines continued as part of the bid, we required emergency services man hour and equipment hour so we could utilize that in the course of the contract so that we could organize a special pick up. The last event we have experienced was in 2012. We have had to organize a special pick about four different times. Haines pointed out that there was a large difference in the numbers in the bids. In 2012 the cost for special pick up with Kramer Tree Specialists was \$31,967. Today Kramer's numbers would be \$37,180. Trees R Us would be \$84,952. Haines stated that there is an obvious difference between the emergency numbers from one contractor to the next. Haines stated that his recommendation, based on the conversation he had with City's legal counsel, is it simply comes down to how City Council wants to consider the emergency hours. Trees R Us are the lowest bidder when it comes to the base bid but there is the possibility of an emergency pick up in which Trees R Us is not the lowest bidder.

The COW discussed the bids the City received, past emergency service pick-ups, difficulty predicting possible severe weather pick ups, and man hours. The floor was opened for public comment.

Nancy Hohmyer addressed the Committee. She stated that as a homeowner and active gardener it is important to have brush pick up at this time of year. This is the time of year when the big clean up is done. In July and August there is not much happening. She suggested the City eliminate one of the summer months, keep the same amount for cost, and do the pick up in the spring.

Nick Willis, Vice President of Trees R Us, addressed the Committee. He stated that they would be the lowest bidder without the emergency rates, which is an unknown. The savings of \$30,000 with their company is a known cost with a five-year term. Bill Thompson, Trees R Us,

distributed a handout listing cost for the 2012 event with rates from both Trees R Us and Kramer Inc. Thompson overviewed the handout with the Committee. The Committee discussed the bids. Holm stated that it comes down to guaranteed savings versus the risk.

Jeff Kramer, Kramer Tree Specialists, stated that they have been forming brush programs for over twenty-five years. The way Batavia picks up brush is the way we developed that system. We have been creating value, reducing costs for our clients in the brush programs. A storm is relevant to these programs. We take storms into consideration for our communities and reduce our emergency work for that part of our business. Storm work is very demanding on equipment and manpower for any company. That has become a challenge for us and we have learned how to deal with those challenges and demands.

Motion: To recommend to Council approval of brush pick-up with Trees R Us Inc. for an amount of \$213,983 per season

Maker: Brown

Second: Callahan

Roll Call Vote: **Aye:** Brown, Callahan, Meitzler, Cerone, Atac
Nay: O'Brien, Malay, Uher, McFadden, Russotto, Stark, Wolff, Salvati
5-8 Vote, 1 Absent, Motion failed.

Motion: To recommend to Council approval of brush pick-up with Kramer Services for an amount of \$219,912 per season

Maker: Brown

Second: Uher

Roll Call Vote: **Aye:** Brown, O'Brien, Malay, Uher, McFadden, Russotto, Atac, Stark, Wolff, Salvati
Nay: Callahan, Meitzler, Cerone
10-3 Vote, 1 Absent, Motion carried.

20. Resolution 19-054-R: Authorizing Execution of an Agreement with the Archon Construction Company for an amount not to exceed \$179,041 to perform Directional Boaring for Lorlyn Apartments and 2401 Hawks Drive (RB 4/5/19) PU

O'Brien summarized the memo.

Motion: To recommend to City Council approval of Resolution 19-054-R: Authorizing Execution of an Agreement with the Archon Construction Company for an amount not to exceed \$179,041 to perform Directional Boaring for Lorlyn Apartments and 2401 Hawks Drive

Maker: Meitzler

Second: Malay

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

CONSENT AGENDA

21. Project Status

Newman reported that the City has launched an online application for overnight parking. Newman announced that this online application process was completed in house without the need to purchase software.

22. Other

Buening stated that to reduce the sewer hook up fee by \$2,000 the City is considering a swap of land in the public right of way. Buening stated that this would be an equitable solution to make sure we get our right-of-way. Newman added that this is for a property that was recently annexed and their sewer is failing now and they would not be obligated to pay for the hook up to the City's sewer. They own property rights to the middle of the street. It would be in the City's interest to own part of their property that is on the City-owned street.

23. Adjournment

There being no other business to discuss, Chair Brown asked for a motion to adjourn the meeting at 10:25pm; Made by O'Brien; Seconded by Salvati. Motion carried.