

MINUTES
February 9, 2021
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 Wolff called the meeting to order at 7:00pm.

1. Roll Call

Members Present: Chair Wolff; Ald. Miller, Beck, Knopp, Chanzit, Baerren, O'Brien, Callahan, Uher, Cerone

Members Absent: Aldermen Russotto, Meitzler, Malay, McFadden

Also Present: Mayor Schielke; Laura Newman; Gary Holm, Director of Public Works; Scott Buening, Director of Community Development; Anthony Isom, Assistant to the City Administrator; Peggy Colby, Director of Finance; and Jennifer Austin-Smith, Recording Secretary

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

3. Approve Minutes for January 26, 2021

Motion: To approve minutes for January 26, 2021

Maker: Knopp

Second: Beck

Roll Call Vote: **Aye:** Knopp, Chanzit, Baerren, Wolff, O'Brien, Callahan, Uher, Cerone, Miller, Beck

Nay:

10-0 Vote, 4 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 at this time.

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 Minutes: April 28, 2020 and November 10, 2020

Motion: To approve the Consent Agenda as presented
Maker: Wolff
Second: Uher
Roll Call Vote: **Aye:** Wolff, O’Brien, Callahan, Uher, Cerone, Miller, Beck, Knopp, Chanzit, Baerren
Nay:
10-0 Vote, 4 Absent. Motion carried.

7. Ordinance 21-14: Approving Plat of Vacation for Trillium Court Turnaround (SCB 2/3/21) CD

Callahan overviewed the memo. Buening discussed the liability issues with maintaining this property. Buening noted that this requires three quarters majority City Council vote. There were no members from the public to address the Committee of the Whole (COW).

Motion: To recommend approval of Ordinance 21-14: Approving Plat of Vacation for Trillium Court Turnaround
Maker: Callahan
Second: Cerone
Roll Call Vote: **Aye:** Callahan, Uher, Cerone, Miller, Beck, Knopp, Chanzit, Baerren Wolff, O’Brien
Nay:
10-0 Vote, 4 Absent. Motion carried.

8. Ordinance 21-12: Amending the Text of the Zoning Code (Cannabis Business Establishments) City of Batavia, Applicant (DR 2/1/21) CD

Callahan stated that through the COWs discussion on this matter, the COW sent it for a referendum vote and that was a non-binding advisory. Nearly 81% of the public did turn out for the vote and the majority did support the question of allowing cannabis dispensaries in the community. As a result, we have had several discussions and provided some direction to the Plan Commission and Zoning Board of Appeals.

Callahan reviewed the recommendations of the Plan Commission and Zoning Board of Appeals with the COW per section. The ‘Districts Allowed’ section was discussed first. Buening noted that after a period of time, the text could be amended sometime in the future. This is not necessarily permanent but what we are looking to do is to facilitate this use now. Callahan stated that in the Chief’s memo he explained succinctly what would be preferred. Callahan stated that he is inclined to keep this use out of the downtown for the time being. Miller, Beck and Baerren expressed that they would be in support of adding in the Downtown Mixed-Use. The Committee discussed the parking requirements. Rackow reported that the Plan Commission (PC) included a requirement that through the Conditional Use process if it is determined that more parking is required the Commission could require the applicant to provide additional parking, if necessary.

Rackow noted the medical marijuana parking requirement was increased from one to two-hundred to one to three-hundred. The Committee discussed applicable Zoning Code regulations, on-site consumptions, and number of dispensaries. The PC put restrictions on the number allowed in town, essentially one on the east and one on the west: one being a co-location in the Industrial District and one in the General Commercial District. Rackow gave examples of nearby municipalities with similar restrictions on the amount of dispensaries.

Callahan stated that the setbacks are self-limiting thus making restrictions on the number of dispensaries unnecessary. Baerren and Wolff concurred. Chair Wolff stated that the number of dispensaries should be left out. Knopp stated that he is not sure that he goes along with one location being a stand-alone and a second one has to have a growing facility mixed in with it. It sounds more restrictive than it needs to be. Callahan agreed.

Separation requirements and setbacks were discussed. The Committee viewed the “GC, LI, and GI District Areas Outside of Proposed Setback Buffers” map. Chair Wolff stated that he feels a setback of 500ft is enough. It would increase the availability of spots along Nagle Boulevard and other areas where it could go as well as the Kirk Road corridor. The Committee discussed the distance from Park District property and detention areas. Callahan stated that before this went to Council we could get a new map to show what the 500ft would look like and if the majority would like to add the Downtown Mixed Use we would see what those areas would be and we could either keep it in or keep it out. There was no objection from the Committee.

The Committee discussed setbacks from various uses such as schools, parks, daycares, libraries, recreational centers or arcades. Knopp stated that there is an ambiguity of what is the definition of an arcade and does Chucky Cheese meet that definition. He does not like ambiguity written into a statute because it is open to interpretation. One day we tell someone yes and then the next we tell the next person no because someone else is reading the way it is written. Uher added then we have to determine whether or not video gambling is an arcade. Chair Wolff suggested removing recreation centers and arcades so that we don’t have to worry about ambiguity. Baerren, Beck and Miller voiced agreement. There was no objection from the Committee. The Committee discussed drive through/walk-up windows prohibited and no change was recommended.

The Committee discussed the hours of operation. Callahan referenced Chief Eul’s memo that states if you limit or shorten times you have congestion. Callahan voiced he is good with going with the State law for hours of operation so that we don’t have a narrow window for those to go to shop. Knopp agreed and said leaving the hours open in line with what the State has recommended we could attempt to thin the crowd out a little as the Chief stated in his report. The consensus of the Committee was to leave the hours of operation at the State’s recommended 6am-10pm.

The Committee discussed signage, materials for applications and qualifications. Rackow stated the PC liked the idea of the applicant having had a license in another location either in the State of Illinois or another state that has legalized cannabis sales. They recommend that it be a requirement that the applicant have a license for a year before they could apply in Batavia. Callahan stated as with any licensed activity, such as tattoo artists, we do not require them to be

open for a year. The year requirement does not fit for anything else. Buening noted that if these are Conditional Uses, we could go through a procedure to revoke a Conditional Use. If they are violating the terms and the conditions of the Conditional Use that was granted, City Council could hold a Public Hearing and revoke a Conditional Use if they choose to do so. Chair Wolff stated that he does not feel that we need this in there. Baerren and Beck agreed. There was no opposition voiced by the Committee.

Commander Eric Blowers addressed the Committee. He stated that his only recommendation would be this use remains outside of the Downtown Mixed Use area. His recommendation came specifically from one of the dispensaries that they interviewed. They indicated that the traffic congestion was significant at their facility and the lack of available parking in downtown areas would be problematic. We listened to what they said as well as what other area municipalities have said in terms of keeping dispensaries out of the downtown areas based mainly on traffic concerns and parking issues.

Motion: To recommend approval of Ordinance 21-12: Amending the Text of the Zoning Code (Cannabis Business Establishments) as presented subject to the following:

- Removal of the recommended number of dispensaries
- Under separation requirements, change to 500ft for all of the stated places
- Disregard recreation centers and arcades
- Changing hours of operation to the State law, 6am-10pm
- Removing the qualifications
- Remove the co-location

Maker: Callahan

Second: Knopp

Roll Call Vote: **Aye:** Callahan, Uher, Cerone, Miller, Beck, Knopp, Chanzit, Baerren Wolff, O'Brien

Nay:

10-0 Vote, 4 Absent. Motion carried.

The consensus of the Committee was to leave the Downtown Mixed Use (DMU) for City Council if anyone wants to make an amendment.

9. Resolution 21-009-R: Addendum to the Grant Agreement between the City of Batavia and Batavia Mainstreet for Development of the Boardwalk Shops Project (LN) CD

Chanzit overviewed the memo. Callahan asked if the utility boxes on the site would be aesthetically improved. Saam answered that there are two utility boxes that are located at the front entryway on Wilson Street and they are a bit of an eyesore. The City of Aurora put a call out to artists to do more of their utility boxes in their downtown. She knows Water Street Studios has artists who would love to partner with us on that. If we could make that happen it would make the entryway more inviting to people. If there was something that we could do to beautify that area we would definitely appreciate that approval by the City. Callahan stated that he is in favor of seeing that happen and he will work on that. Saam reported that there are twenty-five business applications for ten spots for the boardwalk shops. She thanked the Committee for the

support of this project. The boardwalk shops have turned out even more successful than originally thought.

Motion: To recommend approval of Resolution 21-009-R: Addendum to the Grant Agreement between the City of Batavia and Batavia MainStreet for Development of the Boardwalk Shops Project

Maker: Chanzit

Second: Callahan

Roll Call Vote: **Aye:** Chanzit, Baerren, Wolff, O'Brien, Callahan, Uher, Cerone, Miller, Beck, Knopp

Nay:

10-0 Vote, 4 Absent. Motion carried.

10. Ordinance 21-13: Authorizing Sale of Excess Former Railroad Parcels by Solicitation of Bids (South of Bernadette Lane and North of Millview Drive) (SCB 1/25/21) GS

Buening overviewed the memo with the Committee. These five parcels are landlocked remnants that have no value or use to the City. Any reasonable offer will not be refused.

Motion: To recommend approval of Ordinance 21-13: Authorizing Sale of Excess Former Railroad Parcels by Solicitation of Bids (South of Bernadette Lane and North of Millview Drive)

Maker: Chanzit

Second: Knopp

Roll Call Vote: **Aye:** Chanzit, Baerren, Wolff, O'Brien, Callahan, Uher, Cerone, Miller, Beck, Knopp

Nay:

10-0 Vote, 4 Absent. Motion carried.

Ald. Beck left the meeting at 8:55pm

11. Ordinance 21-09: Revising Title 3 of the Batavia Municipal Code Creating an Accommodation Facility Liquor License and Amendment of the C-2 Carry-In Liquor License (EB 2/3/21) GS

Commander Blowers stated that the main changes to the ordinance is expanding who is able to apply for a carry-in liquor license. Under the current code it is strictly salons. This expands that to all other businesses in the Downtown Mixed Use area, specifically retail businesses who tend to blend their business models with onsite activities. The other proposed amendment in this ordinance is the addition of a liquor code classification. This will be a Class L Accommodation Facility Liquor License. The Landings Senior Living Facility brought this to us. They are looking to have a pub and liquor service in conjunction with their food service at their senior living facility and we did not have any type of classification that currently accommodate their needs or request. Legal counsel advised this is similar to a hotel liquor license, which our community does not currently have, giving the lack of hotels in our community.

Motion: To recommend approval of Ordinance 21-09: Revising Title 3 of the Batavia Municipal Code Creating an Accommodation Facility Liquor License and Amendment of the C-2 Carry-In Liquor License

Maker: Uher

Second: Wolff

Roll Call Vote: **Aye:** Uher, Cerone, Miller, Knopp, Chanzit, Baerren Wolff, O'Brien, Callahan

Nay:

9-0 Vote, 5 Absent. Motion carried.

Ald. Beck returned to the meeting at 9:00pm.

12. Resolution 21-007-R: Authorizing Execution of Task Order #25 with Engineering Enterprises for Professional Services/Design Engineering related to the Chlorine Booster Station on SE side of the City (JPB 2/3/2021) PU

O'Brien summarized the memo with the Committee. Holm added \$365,000 is included in the 2021 budget for this project. The project is scheduled for this year. O'Brien asked about security from potential hackers. Holm answered that we have firewall protections and we have no control from the outside so we cannot operate the system from the outside. We can only monitor it from the outside. We are fortunate to have up-to-date software platforms and safety is an ongoing concern for our utilities.

Motion: To recommend approval of Resolution 21-007-R: Authorizing Execution of Task Order #25 with Engineering Enterprises for Professional Services/Design Engineering related to the Chlorine Booster Station on SE side of the City

Maker: Wolff

Second: Knopp

Roll Call Vote: **Aye:** Wolff, O'Brien, Callahan, Uher, Cerone, Miller, Beck, Knopp, Chanzit, Baerren

Nay:

10-0 Vote, 4 Absent. Motion carried.

CONSENT AGENDA

13. Resolution 21-008-R: Authorizing Award of Contract to Whittaker Construction and Excavating, Inc., related to the Water Treatment Plants #1 and #2 Rehabilitation Project (JPB 2/3/2021) PU

O'Brien summarized the memo.

Motion: To recommend approval of Resolution 21-008-R: Authorizing Award of Contract to Whittaker Construction and Excavating, Inc., related to the Water Treatment Plants #1 and #2 Rehabilitation Project

Maker: Wolff

Second: Knopp

Roll Call Vote: **Aye:** Wolff, O'Brien, Callahan, Uher, Cerone, Miller, Beck, Knopp, Chanzit, Baerren

Nay:

10-0 Vote, 4 Absent. Motion carried.

14. Resolution 21-010-R: Authorizing a Contract with Meade Inc to perform Directional Boring and Conduit Installation for New Electrical Service at 1801 Suncast lane for an amount not to exceed \$79,150 which includes 10 percent Contingency Amount (RB 2/5/2021) PU

O'Brien summarized the memo.

Motion: To recommend approval of Resolution 21-010-R: Authorizing a Contract with Meade Inc to perform Directional Boring and Conduit Installation for New Electrical Service at 1801 Suncast lane for an amount not to exceed \$79,150 which includes 10 percent Contingency Amount

Maker: Wolff

Second: Knopp

Roll Call Vote: **Aye:** Wolff, O'Brien, Callahan, Uher, Cerone, Miller, Beck, Knopp, Chanzit, Baerren

Nay:

10-0 Vote, 4 Absent. Motion carried.

CONSENT AGENDA

15. Resolution 21-011-R: Authorizing a Contract with Carlisle Utility Contractors, Inc to Perform Cable Installation for New Electrical Service at 1801 Suncast Lane for an amount not to exceed \$23,874 which includes 10 Percent Contingency Amount (RB 2/5/2021) PU

O'Brien summarized the memo.

Motion: To recommend approval of Resolution 21-011-R: Authorizing a Contract with Carlisle Utility Contractors, Inc to Perform Cable Installation for New Electrical Service at 1801 Suncast Lane for an amount not to exceed \$23,874 which includes 10 Percent Contingency Amount

Maker: Wolff

Second: Knopp

Roll Call Vote: **Aye:** Wolff, O'Brien, Callahan, Uher, Cerone, Miller, Beck, Knopp, Chanzit, Baerren

Nay:

10-0 Vote, 4 Absent. Motion carried.

CONSENT AGENDA

16. Resolution 21-012-R: Authorizing a Contract with Carlisle Utility Contractors, Inc to Perform 35kV Cable Replacement for New Electrical Service at 1801 Suncast lane for an amount not to exceed \$44,935 which includes 10 Percent Contingency Amount (RB 2/5/2021) PU

O'Brien summarized the memo.

Motion: To recommend approval of Resolution 21-012-R: Authorizing a Contract with Carlisle Utility Contractors, Inc to Perform 35kV Cable Replacement for New

Electrical Service at 1801 Suncast lane for an amount not to exceed \$44,935 which includes 10 Percent Contingency Amount

Maker: Wolff

Second: Knopp

Roll Call Vote: **Aye:** Wolff, O'Brien, Callahan, Uher, Cerone, Miller, Beck, Knopp, Chanzit, Baerren

Nay:

10-0 Vote, 4 Absent. Motion carried.

CONSENT AGENDA

17. Project Status

Isom reported on the following:

- As Region 8 has moved back to Phase 4 of the Restore Illinois plan, we will be resuming hybrid meetings beginning the week of February 15th, 2021. We will continue to allow virtual participation on our GotoWebinar platform for elected officials, staff and the public. Public Service counters will remain closed until the positivity rates remain low enough to stay in Phase 4. We don't want to confuse the public by opening and having to shut down again especially when scientists are cautioning that we could see cases rise as more virulent strains begin to spread.
- The Kane County Health Department and BATV will be visiting City Hall tomorrow, February 10th, to film a video to provide information on the vaccination process in Kane County.
- The Batavia Rotary Club has donated two bike racks to the City. The Bicycle Commission recommend that these racks be placed along side the picnic area at the Board Walk Shops. A map of where bike racks are located can be found on our website under the link 'City Maps'.
- Staff is setting up meetings with MainStreet to discuss how the farmer's market would be set up this year given the reconfiguration of North River Street into a one-way road.
- We have received more than seventy sign ups on the One Washington Place website to receive updates. Shodeen offered to share their OWP logo with us for branding the website and other project materials. Shodeen offered graphics and art assistance to create a downtown parking map for customers to use during construction.
- All of the TIF 6 documents have now been recorded including those to dissolve TIF 5.
- We have been notified that we are officially a Certified Local Government for Historic Preservation effective on January 26, 2021.

18. Other

Knopp shared that he attended the Historic Preservation Commission (HPC) meeting last night and discussed the historic landmark process. At this time, HPC does not feel they need to do anything to that process and they said it is the City Council's process. He does not have any suggestions for tonight but he will be meeting with Aldermen Callahan and Miller to discuss some ideas and bring those back at a future COW meeting.

19. Executive Session:

a. Litigation (WB)

b. Purchase of Real Estate (LN)

The Committee entered into Executive Session at 9:22pm and exited Executive Session at 9:41pm.

20. Adjournment

Chair Wolff asked for a motion to enter into Executive Session and thus adjourning the meeting at 9:22pm to enter into Executive Session; Made by O'Brien; Seconded by Uher. Motion carried.