

**Village of Batavia – MINUTES of COUNCIL MEETING,
September 9, 2019**

**Batavia Village Council
Minutes of Meeting
Monday, September 9, 2019**

The Batavia Village Council met in regular session on Monday, September 9, 2019, at 7:10 pm with Mayor John Thebout presiding. Mayor Thebout called the meeting to order and led the Pledge of Allegiance to the Flag.

Roll Call of Members Present

Mr. Handra, Ms. Turner, Mr. Garrison, Mr. Vickers, Mr. Gipson, and Mr. Ellis.

Village Officials Attending the Meeting: Mayor John Thebout, Administrator Dennis Nichols, Fiscal Officer John Waite, Solicitor Christopher Moore, Chief James Young, and Officer Christopher Whitaker

Others Attending the Meeting: Penny Coffey, JoAnn Martino, Joseph Greener, Kim Laffleur, Joe Laffleur, Diana Cole, and Shana Bochelma

Approval of Financial Reports:

Mr. Ellis made motion to approve the August Bank Statements and Cash Journal, seconded Mr. Gipson. The motion passed 6-0

Approval of Minutes:

Ms. Turner made a motion to approve the minutes of the August 19, 2019 Special Council Meeting, seconded by Mr. Vickers. The motion passed 6-0

Village Administrator: Dennis Nichols

Zoning Change for parcels on W. Main Street

An Ordinance amending the Batavia Zoning Ordinance to assign 10 parcels on West Main Street currently zoned Industrial change to B-2 General Business District. All of the properties are actually businesses.

Ordinance 1430-19 3rd reading

Mr. Gipson made a **Motion** to adopt **Ordinance 1430-19**, seconded by: Mr. Ellis

Vote by roll: Mr. Handra, yes, Ms. Turner, yes, Mr. Garrison, yes, Mr. Vickers, yes, Mr.

Gipson, yes, Mr. Ellis, yes **Motion passed 6-0 Ordinance 1430-19 Adopted**

Electric Utility

Duke Energy has sued in Clermont County Common Pleas Court to try to block Batavia's municipal electric utility. Utility legal expert John Coyle of Duncan & Allen is available for our defense, and Lawrence Barbieri of Schroeder, Maundrell, Barbieri & Powers will be our lead counsel. Coyle and Barbieri are defending the city of Hamilton and Fairfield Township against a Duke suit that

**Village of Batavia – MINUTES of COUNCIL MEETING,
September 9, 2019**

raises some of the issues that concern Batavia, and they won dismissal in a Butler County Court, sustained by the 12th District Court of Appeals. Our insurance will pay for part of the legal expenses, and AMP Ohio has offered to assist in our defense. Mr. Coyle wrote the legal analysis for Batavia's feasibility study. Duke has said the suit will not interrupt preparation of wholesale rates and the Batavia interconnection agreement. Our answer to the suit is due in late September. Our system will serve the new Kent Road AAG Glass plant.

Village Solicitor, Christopher Moore told Council that in the suit, Duke claims that the Village of Batavia cannot pick and choose who it will provide electric service to. He disagrees with that position. Duke currently has two other lawsuits against municipal electric utilities. In a suit against the City of Hamilton, the judge has ruled that Duke must file its complaint with the Ohio Public Utilities Commission instead of filing a suit in court. We believe that the Hamilton ruling will apply in our case. Filing this case in court after receiving the Hamilton ruling means that this suit is highly questionable.

Mr. Garrison asked what we expect our legal costs will be. The Fiscal Officer, Mr. Waite, responded that we will be appropriating \$25,000 for contingent legal expenses.

OPWC Project to Line the Sewers on Old Boston Road, Edith Ave., Charles Street, Gregory Drive and Shelley Drive.

Bids were opened on August 27th. Insituform was low bidder for the Ohio Public Works Program job to line the sanitary sewers in the subdivision neighborhood including Charles, Shelley, and Old Boston. Insituform's base bid is \$504,923, and the bid including lining all the lateral lines is \$876,284. Available OPWC funds are \$1,092,000. Work is to be completed by early 2020. We plan to repay the OPWC loan by assessing the parts of the entire village currently served by our sewer, with a special real estate assessment of approximately ½ mil, subject to calculation by the county auditor.

Mr. Vickers made a **Motion** to accept Insituform's Bid for the contract for the 2019 Sewer Improvement Project and to authorize the Village Administrator to execute contracts with Insituform, seconded by: Mr. Gipson. **Motion passed 6-0**

Providing Sewer service to Karen Dr., Hulick Lane and Perkins Lane

Karen Dr., Hulick Lane and Perkins Dr. were annexed into the Village of Batavia approximately 50 years ago with the promise that they would be provided village water and sewer. Residents on those streets have been paying village income tax but the Village has failed to provide them with sewer. The Village Administrator has contacted an engineering firm and received a preliminary estimate that it would cost about \$670,000 to run a sewer line down Karen Drive, cross Clough Pike, and then down the hill to S.R. 132.

The Administrator suggests that the cost of the sewer should be paid for by assessing the entire Village with a special real estate tax assessment of approximately ½ mill, subject to calculation by

**Village of Batavia – MINUTES of COUNCIL MEETING,
September 9, 2019**

the county auditor. The Administrator asked Council for direction. Do they want him to proceed seeking engineering for a sewer line for Karen Dr., Hulick Lane and Perkins Lane?

Mr. Garrison made a **Motion** to approve a commitment to installing sewers to Karen Dr., Hulick Lane and Perkins Dr. and to authorize the Village Administrator to seek engineering design studies for the sewer line, seconded by: Mr. Gipson. **Motion passed 6-0**

Streamside Residential Development

The Clermont County Board of Commissioners rescinded the county's 2005 Residential Incentive District on Streamside, and Hal Homes has resumed full-speed site preparation. We are completing the process of issuing bonds for up to \$3 million for infrastructure, to be repaid from property assessments on the new houses.

Condemnation of various nuisance buildings

Batavia Nursing Home owner Patricia Meeker missed her deadline for demolishing the building. She was told her about a fallen tree, which she removed promptly, and she said she will talk to her lawyer about how to pay for demolition or the possibility of selling the property as it is.

The sale of 225 Wood Street fell through. The bank required more equity than the buyer could provide, and the house has returned to the market. The Realtor tells me they have another offer and hope that the bank approves the purchase. Until ownership is settled, the property remains in the jurisdiction of the Common Pleas Court, and the village cannot proceed with nuisance demolition.

The low-head dam on the East Fork has been removed by the Valley View Foundation using a grant from the Ohio EPA to pay for it.

Amendment to Batavia's Zoning Code

Text revisions to the Batavia Zoning Code to revise the citation enabling authority to recognize municipal home rule under the Ohio Constitution in place of Section 713 of the Ohio Revised Code

Ordinance 1435-19 1st reading

Alcore Assisted Living facility is being built on Herold Road at S.R. 32. We will have to set the B-2 zoning for the property.

The Concert by the Clermont Pops Orchestra on Saturday, September 27th has been cancelled.

Police Department, Chief Young

There was a slight decrease in reported police activity for August, primarily because some officers were away for training.

The Police Department purchased a used 2017 police cruiser with 25,000 miles on it for a price significantly less than the cost of a new cruiser.

**Village of Batavia – MINUTES of COUNCIL MEETING,
September 9, 2019**

The police department completed an audit of its property room. There were a few items that had been disposed of, but the paperwork was missing. The Chief has reported those items to the County Prosecutor. The Prosecutor is expected to sign off on the items.

Councilman Garrison asked the Chief to look into complaints about aggressive panhandling in the UDF parking lot.

Joe Laffleur expressed concerns about a resident who is walking up and down Main Street dressed in a black cape and carrying a fake sword. The Chief is aware of the person and said that the person has some mental problems but that he hasn't been aggressive or dangerous.

Mayor, John Thebout

The Mayor noted that there are three people running for two seats on Council on the ballot in the November election, and all three people are in attendance. He asked all three to stand and introduce themselves.

The Mayor asked Council for a Motion to adjourn to executive session to discuss a personnel issue.

Mr. Handra made a **Motion** adjourn to Executive Session to discuss personnel, seconded by: Mr. Vickers

Vote by roll: Mr. Handra, yes, Ms. Turner, yes, Mr. Garrison, yes, Mr. Vickers, yes, Mr. Gipson, yes, Mr. Ellis, yes **Motion passed 6-0**

Mr. Vickers made a **Motion** return from Executive Session, seconded by: Mr. Gipson

Vote by roll: Mr. Handra, yes, Ms. Turner, yes, Mr. Garrison, yes, Mr. Vickers, yes, Mr. Gipson, yes, Mr. Ellis, yes **Motion passed 6-0**

Village-wide yard sale is Saturday, September 14th.

The next Council Meeting falls on the Columbus Day Holiday. The Mayor asked Council to decide when they would like to have the October meeting.

Mr. Handra made a **Motion** to meet on Tuesday, October 15th, seconded by: Mr. Vickers.

Motion passed 6-0

October 31st is on a Thursday. Batavia Township is having Halloween on the 31st.

Mr. Ellis made a **Motion** to have Halloween on Thursday, October 31st from 6:00pm to 8:00pm, seconded by: Ms. Turner. **Motion passed 6-0**

Village Solicitor, Christopher Moore

Mr. Moore said most of his topics have already been discussed, so he will just summarize.

Hal Homes Streamside Residential Development has completed a due diligence report for the bond underwriters.

He has worked on the Duke Energy lawsuit.

**Village of Batavia – MINUTES of COUNCIL MEETING,
September 9, 2019**

Judge Brock has set a hearing for a preliminary injunction for the CRT Electronics nuisance violation for September 30.

The easement issues for the Batavia Water Utility have just about been completed. We will be able to meet with the Clermont County officials in about 2 weeks to wrap up the transfer agreement.

After the Village sold the firehouse to Ingredient Masters, the Clermont County Auditor has tried to assess back real estate taxes to Ingredient Masters for the time that the County and then the Village owned the property. Mr. Moore has been helping ingredient Masters correct the Auditor's Office.

Fiscal Officer: John Waite

Mr. Waite presented the Fiscal Officer's report on August activity

Appropriations Amendment

Increase General Fund appropriations by \$42,000:

\$10,000 for tax collection fees because we will be paying R.I.T.A. a fee instead of paying a salary to a tax commissioner.

\$7,000 for additional legal fees for our Solicitor because I under-appropriated the amount at the beginning of the year.

\$25,000 of contingent legal fees for defending the Duke Energy lawsuit.

This is an emergency in that the funds are needed for the payment of routine expenses.

Ordinance 1436-19 1st reading Waive the three readings and declare an emergency.

Mr. Ellis made a **Motion** to declare an emergency and to waive the three readings, seconded by: Mr. Vickers

Vote by roll: Mr. Handra, yes, Ms. Turner, yes, Mr. Garrison, yes, Mr. Vickers, yes, Mr. Gipson, yes, Mr. Ellis, yes **Motion passed 6-0**

Mr. Handra made a **Motion** to adopt **Ordinance 1436-19**, seconded by: Mr. Ellis

Vote by roll: Mr. Handra, yes, Ms. Turner, yes, Mr. Garrison, yes, Mr. Vickers, yes, Mr. Gipson, yes, Mr. Ellis, yes **Motion passed 6-0 Ordinance 1436-19 Adopted**

Legislation accepting amounts and rates as determined by the Budget Commission and authorizing the necessary tax levies and certifying them to the County Auditor

Resolution 283-19 1st reading Waive the three readings and declare an emergency.

Mr. Handra made a **Motion** to declare an emergency and to waive the three readings, seconded by: Mr. Gipson

Vote by roll: Mr. Handra, yes, Ms. Turner, yes, Mr. Garrison, yes, Mr. Vickers, yes, Mr. Gipson, yes, Mr. Ellis, yes **Motion passed 6-0**

Mr. Ellis made a **Motion** to adopt **Resolution 283-19**, seconded by: Mr. Vickers

Vote by roll: Mr. Handra, yes, Ms. Turner, yes, Mr. Garrison, yes, Mr. Vickers, yes, Mr. Gipson, yes, Mr. Ellis, yes **Motion passed 6-0 Resolution 283-19 Adopted**

**Village of Batavia – MINUTES of COUNCIL MEETING,
September 9, 2019**

Committee Reports:

Village Council:		Next Meeting, Tuesday, October 15 @ 7:00 pm.
Finance Committee:	Bob Handra	Next Meeting, Wednesday, September 26 @ 6:00 pm.
Planning Commission	Bob Handra	Next Meeting, Tuesday, September. 17 @ 7:00pm
Farmers Market	Kathy Turner	She wants to recognize Sandy Bradford for her servcie
Cemetery Committee	Kathy Turner	Next meeting, October 2 @ 6:00 pm

New Business / Public Comment None

There was a request to have the yellow line on Fifth Street at the curve by the hill repainted to prevent cars from crossing into the oncoming lane.

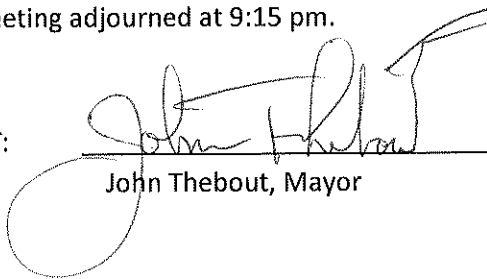
There was a complaint about dogs barking and creating a public nuisance.

There was a complaint about cars speeding on Fifth Street. And a related complaint about cars with loud mufflers creating a public nuisance.

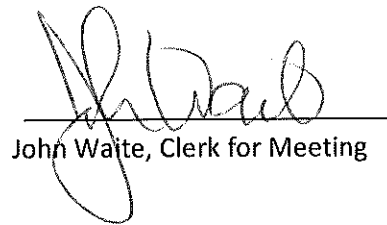
Adjournment:

Mr. Handra made a motion to adjourn, seconded by Mr. Ellis. Motion passed 6-0
The meeting adjourned at 9:15 pm.

ATTEST:



John Thebout, Mayor



John Waite, Clerk for Meeting