

**Village of Batavia – MINUTES of COUNCIL MEETING,
June 14, 2021**

**Batavia Village Council
Minutes of Meeting
Monday, June 14, 2021**

The Batavia Village Council met in regular session on Monday, June 14, 2021, at 7:00 pm with Mayor Thebout presiding. Mayor Thebout called the meeting to order and led the Pledge of Allegiance to the Flag.

Roll Call of Members Present

Ms. Turner, Mr. Handra, Mr. Garrison, Ms. Cole, Ms. Moore, Mr. Gipson.

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

Others Attending the Meeting: Mindy Hatfield, Lana Fritsch, Don Kinner, Claire Kinner, Ethan Kinner, Jamie Kinner, Camryn Cole, Jessie Bullock, Chris Huser, Adam Craver, Jenx Elliott, Tanner Shirley, Koren Moore-Runk, Richard Landwehr, Kelly Watson, Kellie Wright, Zoe Moore-Runk

Approval of Financial Reports:

Mr. Handra made a motion to approve the May Bank Statements and Cash Journal, seconded by Ms. Turner. The motion passed 6-0

Approval of Minutes:

Ms. Cole made a motion to approve the minutes of May 10, 2021 Village of Batavia Regular Council Meeting, seconded by Mr. Gipson. The motion passed 6-0

Village Administrator: Dennis Nichols

Ordinance to consent for the Ohio Department of Transportation to maintain state highways in the village, including repairs, pavement markings and signs, and removing snow and ice

Ordinance 1477-21 1st reading Pass as an Emergency and Waive the 3 readings

This is an emergency since the maintenance of roads in the village is a safety issue, and ODOT is currently working on the intersection of S.R. 32 at Bauer Road.

Mr. Garrison made a **Motion** to declare an emergency and to waive the three readings, seconded by: Ms. Cole.

Vote by roll: Mr. Gipson, yes, Ms. Cole, yes, Ms. Moore, yes, Mr. Garrison, yes, Mr. Handra, yes, Ms. Turner, yes Motion passed 6-0

Ms. Cole made a **Motion** to adopt **Ordinance 1477-21**, seconded by: Mr. Gipson.

Vote by roll: Mr. Gipson, yes, Ms. Cole, yes, Ms. Moore, yes, Mr. Garrison, yes, Mr. Handra, yes, Ms. Turner, yes Motion passed 6-0 **Ordinance 1477-21 adopted**

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Ordinance amending Code Section 90.39 Hunting Prohibited, Code Section 90.40 Birds, and Code Section 40.41 Keeping Animals

Ordinance 1478-21 1st reading

This Ordinance came from the Planning Committee who asked the Administrator to rewrite the existing Ordinance on Hunting, Birds and Keeping Animals.

Ms. Moore asked why there was a change in limiting the number of dogs and cats from 4 to 3. She also asked about the change from 1 acre minimum to 5 acres.

The Administrator responded that the existing Ordinance says, "4 or more are prohibited". This revised Ordinance says, "no more than 3". That is the same thing, only stated more clearly.

The Administrator responded that there are only a few parcels in the Village that are more than 1 acre. The controversies that have arisen relate to parcels less than 1 acre.

Ms. Moore asked if the proposed legislation would apply to newly annexed and future annexed properties.

The Administrator said, "Yes."

Mr. Garrison asked about the restriction of not having animals within 100 feet of a dwelling. Given the size of lots in the Village, it would be impossible to have an animal pen that wasn't closer than 100 from an existing dwelling. Therefore, this is a prohibition against having animals.

The Administrator responded that animals are currently prohibited on lots less than one acre in size. There are only a handful of lots large enough to allow animals. The proposed Ordinance increases the minimum size for animals from one acre to five acres for health and safety reasons, but existing one acre lots are grandfathered and can continue to have animals. The new requirement for periodic inspections by a veterinarian is also for the health and safety of the animals and that would apply to existing properties because it is not zoning.

Ms. Moore asked if the proposed legislation would apply to newly annexed and future annexed properties because there could be properties greater than 5 acres where hunting would be allowed.

Mr. Garrison asked about chickens because when the issue had been previously raised, he thought that Council was going to make it easier to allow chickens. The Administrator responded when the issue was raised he did not hear Council say that they wanted to allow chickens, and the Planning Commission voted to not change the zoning on chickens.

Ms. Moore asked if that was county planning commission or village planning commission. Mr. Nichols said that it was the village and was asked to draft something compatible with the existing zoning, but he has no preference or recommendation about chickens and Council can do as it wants. Ms. Moore and Mr. Garrison expressed opposition to restricting the ownership of chickens or making it harder to own chickens.

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Ms. Moore asked the Administrator if he had reviewed the paper Mr. Huser prepared regarding chickens. The Administrator responded that he had not seen that document. Mr. Huser was asked to provide that document to the Administrator.

Ms. Moore expressed that this is a good topic for discussion by the Village of Batavia CIC meeting so that Council can provide their input.

The Fiscal Officer responded that this is just a first reading and Council now has the opportunity to take it to the CIC meeting to discuss and make changes.

Ms. Cole wanted to make sure that pigs and other farm animals would not be allowed.

Mr. Handra stated that Code Section 90.41 really is focused on poultry.

Zoe Moore-Runk asked why legislation couldn't be drafted that would let the Village determine things like chicken ownership case-by-case. The Administrator responded that such legislation would be unconstitutional. Legislation is written to provide equal treatment to all residents.

Ms. Moore expressed concern over determining if a person actually owned more than 3 cats, or if there were merely feral cats on someone's property.

Kelly Wright asked as a matter of procedure, why a copy of proposed legislation wasn't made available to the public. Solicitor Chis Moore responded that anyone who wants a copy of the legislation can ask the Fiscal Officer for a copy.

Kellie Wright also wanted to know where the determination of a limit of 3 cats or dogs came from. The Administrator didn't know who made that determination, but it has been on the books for decades. There has been no change.

Claire Kinner asked if anyone on Council has had any agricultural training. People who raise animals generally have the health and safety of the animals in mind. Should people who don't have agricultural knowledge be writing legislation about farm animals?

Solicitor Chris Moore responded that although he has not had any college classes in agriculture, he has had more than 20 legal cases involving the mistreatment of animals. He has had cases where animal owners who believed that they were properly caring for their animals were convicted of mistreatment for constraining animals on lots that were too small.

Mr. Gipson moved to table Ordinance 1478-21, seconded by Mr. Garrison.

Ms. Moore asked if tabling the Ordinance would prohibit Council from raising the issue in the future?

Solicitor Chris Moore responded, "It does not prohibit future discussion, but there would have to be a vote of by at least 4 Council Members to remove the Ordinance from the table to move it forward toward adoption."

Council voted 6-0 to table Ordinance 1478-21.

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Resolution to authorize the transfer of the Batavia Water Utility to Clermont County

Resolution 304-21 2nd reading

2021 Street Pavement Resurfacing Project

The Village solicited bids to resurface 12 streets. Capital Improvement Funds from the 2020 bond refinancing will be used to fund the project. Fillmore Construction, LLC was the low bidder at \$237,700. The bid was less than the expected cost, therefore we may add another street to the project. The Street Superintendent would like approval to add another street or two while keeping the total cost to under \$260,000.

Ms. Cole made a **Motion** to accept the Fillmore Construction's bid of \$237,700 and authorize payment to Fillmore Construction to include an additional street with total payment to Fillmore Construction not to exceed \$260,000 by, seconded by Mr Garrison

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

The Administrator asked for Council to adjourn to Executive Session to discuss Real Estate

Cincinnati Bell has bundled the property at Clark and Ely with 5 other properties and is offering the bundle for sale. We believe that they may be willing to separate out the building on Clark Street. The building is big enough to allow us to store most of the street equipment. We would still need to build a lean-to structure for the rest the equipment.

If we were to purchase land and build a comparable building, the cost would be in excess of \$500,000.

Ms. Cole made a **Motion** to adjourn to Executive Session, seconded by: Mr. Gipson.

Vote by roll: Mr. Gipson, yes, Ms. Cole, yes, Ms. Moore, yes, Mr. Garrison, yes, Mr. Handra, yes, Ms. Turner, yes Motion passed 6-0 Council adjourned at 8:45

Mr. Gipson made a **Motion** to return from Executive Session, seconded by: Ms. Turner.

Vote by roll: Mr. Gipson, yes, Ms. Cole, yes, Ms. Moore, yes, Mr. Garrison, yes, Mr. Handra, yes, Ms. Turner, yes Motion passed 6-0 Council resumed at 9:05

Ms. Cole made a **Motion** to authorize the Village Administrator to negotiate with Cincinnati Bell for the purchase of the property at the corner of Clark Street and Ely Ave and to offer a price determined to be reasonable by the Village Administrator pursuant to discussions held in Executive Session, seconded by: Mr. Gipson.

Vote by roll: Mr. Gipson, yes, Ms. Cole, yes, Ms. Moore, yes, Mr. Garrison, yes, Mr. Handra, yes, Ms. Turner, yes Motion passed 6-0

Streamside Residential Development – There are currently 36 houses under roof.

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Harvest Meadows Residential Development – They plan on beginning infrastructure development this fall, but no houses until next year.

Electric Utility update

There was a hearing before Judge McBride where all pending motions were argued. We are waiting for a ruling.

CRT Electronics Nuisance Suit

The trailer has been removed and the shed has been torn down. The Administrator praised Street Superintendent Wayne Smith for his work in getting compliance with the court order.

Water Utility

The removal of the shed at CRT Electronics was the final hurdle for getting the water utility transferred to Clermont County.

Labor Day Party in the Park

The Administrator proposed having the Village sponsor a Labor Day party in the Broadway Park on September 4th with a band, food trucks, and possibly fireworks. We are waiting on written approval from the School Board to allow us to use the Broadway site for the event.

Evergreen Center Concert at Auxier Hall

There will be a concert on Saturday, June 26th. The public is invited.

Police Department, Chief Young

Chief Young submitted his monthly report to Council. We had 400 calls for service in May.

The Chief reported on an incident where our K-9 aided in the apprehension of a suspect outside of the Village.

The Chief was asked if the cemetery road was being locked at night. He responded that the cemetery board had decided to not lock the gate. Residents whose houses back up to the cemetery responded that they have been happy with the way the police have been patrolling the cemetery.

Mayor, John Thebout

Adjust Wages for Police Chief

Ordinance 1476-21 3rd reading

This is a wage adjustment due to completion of the Chief's probationary period.

Mr. Handra made a **Motion** to adopt **Ordinance 1476-21**, seconded by: Ms. Moore.

Vote by roll: Mr. Gipson, yes, Ms. Cole, yes, Ms. Moore, yes, Mr. Garrison, yes, Mr. Handra, yes, Ms. Turner, yes

Motion passed 6-0. **Ordinance 1476-21 adopted.**

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Village Solicitor, Christopher Moore

Judge McBride is reviewing the briefs for the Duke Energy lawsuit and we are waiting for him to issue a judgement.

The removal of the shed at CRT Electronic has eliminated the water easement issue with the CRT Electronics property.

Mr. Moore thanked Mr. Smith for his help in obtaining compliance from Jeff Bach.

Fiscal Officer: John Waite

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

A Resolution approving the 2022 Tax Budget

Resolution 305-21 2nd reading

Appropriations Amendment

Ordinance 1479-21 1st reading Pass as an Emergency and Waive the 3 readings

This increases the appropriations in the Street Capital Projects Fund 4902 to allow for expenditures for capital improvements that council approved tonight.

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

Vote by roll: Mr. Gipson, yes, Ms. Cole, yes, Ms. Moore, yes, Mr. Garrison, yes, Mr. Handra, yes, Ms. Turner, yes

Mr. Gipson made a **Motion** to adopt **Ordinance 1479-21**, seconded by: Ms. Cole.

Vote by roll: Mr. Gipson, yes, Ms. Cole, yes, Ms. Moore, yes, Mr. Garrison, yes, Mr. Handra, yes, Ms. Turner, yes

Motion passed 6-0. **Ordinance 1479-21 adopted.**

New Business / Audience Participation:

A resident whose house backs up to the cemetery asked Council is anyone knew how close to the property line the cemetery is allowed to bury people. Wayne Smith, cemetery sexton, said that there are people currently buried in the cemetery within 2 feet of the property line.

Committee Reports:

Planning Commission The meeting scheduled for Tuesday, June 15 @ 7:00pm has been cancelled.

Finance Committee: Next Meeting, Thursday, June 24 @ 6:00 pm.

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Village Council Meetings and Village of Batavia CIC Meetings on the 4th Monday of the Month

Council was asked if they wanted to have a regular Village Council Meeting on Monday, June 28.

Council decided to cancel the second meeting in June.

Council was asked if they wanted to have a regular Village of Batavia CIC Meeting on Monday, June 28.

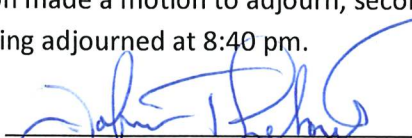
Council decided that they wanted to have that meeting.

Adjournment:

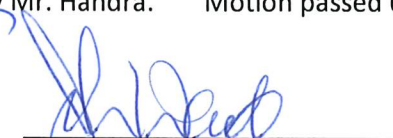
Mr. Gipson made a motion to adjourn, seconded by Mr. Handra. Motion passed 6-0

The meeting adjourned at 8:40 pm.

ATTEST:



John Thebout, Mayor



John Waite, Clerk for Meeting