

MINUTES
March 4, 2013
Community Development Committee
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 6:00 pm.

1. Roll Call

Members Present: Chair Brown; Vice-Chair Wolff (arrived at 6:15pm); Ald. Sparks, Chanzit (arrived at 6:44pm), Clark, Atac (arrived at 6:13pm) and Stark

Members Absent:

Also Present: Ald. Tenuta, Frydendall, Volk, Jungels, and O'Brien (arrived at 6:16pm); Jeff Albertson, Building Commissioner; Scott Buening, Community Development Director; Bill McGrath, City Administrator; Gary Holm, Director of Public Works; Noel Basquin, City Engineer; Jason Bajor, Assistant City Administrator; Steve Vasilion, Historic Preservation Committee; and Jennifer Austin-Smith, Recording Secretary

2. Approve Minutes

There were no minutes to approve at this time.

3. Items Removed/Added/Changed

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

4. Resolution 13-33-R: Authorizing Master Services Agreement with Wiss, Janney, Elstner Associates, Inc. (G. Holm 2/21/13)

Holm reported that prior to commencing with the Streetscape project, the City felt that the buildings along North River Street needed to be evaluated from an architectural/structural engineering perspective. Three qualified consultants were identified and a contract was subsequently awarded.

In late 2012, Staff was directed to evaluate the Baptist Church facility for potential re-use. Staff sought updated qualifications and cost proposals from the three qualified consultants who had been previously identified. Two of the consultants responded.

Staff has reviewed the consultant submittals and feels that both firms would be highly qualified to perform the work. Both firms have extensive experience evaluating structures for potential re-use. Upon review Staff felt that one firm, Wiss, Janney, Elstner Associates, Inc., demonstrated a higher level of experience with limestone structures. Based on this, Staff is recommending

approval of Resolution 13-33-R Authorizing a Master Services Agreement (MSA) with Wiss, Janney, Elstner Associates, Inc. (WJE). The Committee discussed the MSA, long-term plans, history of the evaluation, and the current state of the building.

Motion: To recommend to City Council approval of Resolution 13-33-R: Authorizing Master Services Agreement with Wiss, Janney, Elstner Associates, Inc.
Maker: Stark
Second: Clark
Voice Vote: 4 Ayes, 0 Nays, 3 Absent
Motion carried.

5. Resolution 13-34-R: Authorizing Task Order #1 with Wiss, Janney, Elstner Associates, Inc. for Feasibility Study of the First Baptist Church Facility for the not-to-exceed amount of \$26,000.00. (G. Holm 2/21/13)

Motion: To recommend to City Council approval of Resolution 13-34-R: Authorizing Task Order #1 with Wiss, Janney, Elstner Associates, Inc. for Feasibility Study of the First Baptist Church Facility for the not-to-exceed amount of \$26,000.00
Maker: Stark
Second: Clark
Voice Vote: 4 Ayes, 0 Nays, 3 Absent
Motion carried.

6. Resolution 13-35-R: Authorizing Revised License Agreements for Use of City Right-of-Way for Outdoor Seating (Scott Buening 2/21/13)

Buening reported that this is an amendment to the Resolution 12-101-R which approved the outdoor license agreements last season. Staff wanted to review the provisions and propose some changes. The format remains the same with some additions and changes. Staff has proposed an annual license fee of \$50 plus fifty cents a square foot. Buening noted that this fee structure is similar to the fee structure of Oak Park IL. Staff had met with the business owners regarding the proposed changes and did make additional changes based on that particular meeting. One particular change was a change in the license fee, which was \$300 originally. Other major changes to the license agreement include:

- A Personal Bond of \$1,000.00 required for site cleanup/restoration if the applicant fails to do so.
- Agreements to start on January 1 and end on December 31 of each year. Use of the Licensed Area to start of May 1 and end on November 15. The City would be able to extend these start and end dates for 2 weeks on either end. There is also the provision to grant use of the area for special occasions such as St. Patrick's Day or Mardi Gras outside of these dates.
- Requires a clear zone of 48" for all exiting areas as well as public sidewalks.
- Cannot be within 15 feet of an intersection and cannot interfere with pedestrian access.
- Requires the Licensee to clean the area regularly including bussing of tables. No trash containers (other than smoking material receptacles) are permitted to discourage bugs, bees and odors.
- Furniture or perimeter fencing cannot be mounted to the sidewalk or pavement surface.

- Licensee is required to clean Licensed Area or City can revoke Agreement.
- Snow is required to be removed within 6 hours of a snow event if they keep seating areas intact.
- Requires Licensee to maintain insurance with City listed as additional insured.
- Music is permitted until 10:00 PM Sunday through Thursday, and 11:30 PM Friday and Saturday. (This assumes the same hours as the Outdoor Live Entertainment discussions to date)
- Licensee is required to remove all furniture and other improvements at termination of Agreement or City can take enforcement action to correct the issue.

Buening noted that this discussion is not on the City Council agenda. Staff would like to get input from the Committee to make changes to the document prior to City Council discussion.

Laura O'Brien, 504 Young Avenue, addressed the Committee. She stated that she and her husband own O'Brien's Pub and Grill on River Street as well as the building. O'Brien stated that they attended the meeting with staff but there are some additional concerns that they have that they would like on record for the Committee to consider. Licensing of outdoor seating is a major concern. They have had outdoor seating since they have owned the restaurant and the outdoor seating was there prior to their ownership. The previous owners had an agreement with the City for the outdoor seating to take place. They have not had any permit up until this point of time. They support rules and consistency but are not sure that charging for a permit and comparing our City to Oak Park is really in the best interest of the City. She is glad that the price of the license has changed. She questioned paying for a bond. She stated that they do not agree with the need for a bond, it is a financial situation that they do not agree with.

Buening noted that the bond is not a bond that is paid for, it is a form that is signed by the business owner that guarantees that the owner will pay for maintenance if it is ever needed.

Casey O'Brien, 504 Young Avenue, addressed the Committee. He expressed concern with the bond issue. He stated that he feels that this could be used as a form of entrapment for having to pay for things that the business owners are unaware of that just happened or happened when the business is closed. He feels that the bond gives the City too much control. Personally, he has experienced tens of thousands of dollars of losses to the City. Initially, when they got their liquor license they were informed that they had to pay back taxes. They have paid the money, went through numerous utility issues with the City, and are left frustrated when asked for more money. Business owners have gone through a recession, a bridge and a streetscape and they are tired of it. O'Brien asserted that if the City begins to create too many rules, they will discourage new business owners from establishing their business in Batavia. He recommended creating a demand to come downtown by doing a few more streetscapes in downtown Batavia.

Casey O'Brien discussed how he personally maintains the cleanliness and snow removal of his business's outside area. He added that he removed the awning to aid in the streetscape project but was informed that someone told the contractor to not help him put the awning back up again. A lot of his patrons comment on the missing awning and it is a trademark of his establishment. He would like to update the awning but it is hard to put money back into his building when he keeps on having to give his money back out.

Mark Hogan, 105 East Wilson Street, Wilson Street Tavern business owner, addressed the Committee. He stated that most of his concerns have already been met. His outdoor seating will still have the same footprint.

The Committee discussed the license agreements, bond and license fee.

Motion: To recommend to Council approval of Resolution 13-35-R: Authorizing revised license agreements for use of City right-of-way for outdoor seating

Maker: Wolff

Second: Sparks

Discussion was held on the motion. Wolff stated that when this does come to Council, the Council should remove the fees. Clark stated that there are no fees the first year (2013) but would like it added to the motion that the fees will be revisited prior to implementation. She noted to staff that she would like discussion on the fees brought back to Council prior to administering them. Buening stated that when Staff is prepared to discuss the 2014 agreements, they will bring it to the Committee for discussion. No amendment to the motion was made.

Roll Call Vote: **Aye:** Brown, Wolff, Sparks, Clark, Atac, Stark

Nay: None

6-0 Vote, 1 Absent, Motion carried.

7. Ordinance 13-10: An Ordinance Updating Historic District Classification for 335 First Street (Jeff Albertson 2/5/13)

Albertson reported that the update for 335 First Street was requested by the Committee to go back to the Historic Preservation Committee (HPC) for further discussion with the property owner. The meeting between the property owner and the HPC was held on January 28th. The property owner is concerned with the financial strains when upgrading this property as well as concern with the future use of this property. The HPC and staff concurs that this is a strong candidate to be upgraded to significant. The architecture on this building is unique, the Italianate architecture and the trim and detailing are original to the building and is in good shape with the original design. Staff does recommend that this ordinance be approved.

Steve Vasilion, 426 Illinois, Chair of the HPC, addressed the Committee. He stated that this home is unique. The home reflects a time period of Batavia's history in both the size of the home, typical occupants, and is nicely detailed. The trim appears to be original and is a good example of Italianate architecture. Since it is a good example of Italianate architecture, the HPC feels that it is worth upgrading to significant.

Ralph Beck, 303 Meadow Lane, addressed the Committee. He stated that he is a member of the church that owns this property. The Church strongly objects to upgrading this property. He explained that the property is not in very good shape. John Clark, 314 North Avenue, distributed photos of the home for the Committee to review. Beck continued that though this house may have some historical characteristics, they do not feel that the home is distinctive enough to upgrade to significant. The Church has owned the property in the seventies and reacquired the property about twelve years ago. The reason for acquiring this property was based on the program needs of the Church. It is not inconceivable that at some point they would like to have this building demolished. They do not have a present plan to do that right now, but with parking

requirements being what they are now, their property rights would be significantly hindered by upgrading it to significant.

Beck explained that the cost for a not-for-profit to have a building upgraded to significant would be detrimental. They would not like to incur additional costs. This house is on the boundary of the historic district on a hodgepodge street. They do not feel that the features of this house outweigh our property rights or our intended future uses. Beck stated that they have been good citizens in the past and did a three corner trade with the school district and the library. In that deal, we provided parking spaces for the school administrative building. They also share their parking with other stakeholders in Batavia. Beck stated that that their property rights are being impinged upon by being upgraded to significant.

John Clark added that they share their parking lot with the Congregational Church. Clark stated that he read in the HPC minutes that the HPC is open to the fact that the church may go to the Council to request permission for demolishing the property and using it for more parking spaces. Clark stated that they are not opposed at all to selling the house for a nominal fee as long as the purchaser pays for the house to be relocated off of the property.

He continued that he is concerned with one aspect in the HPC minutes. The governing body questions the statement in the minutes that this house would draw people to move to Batavia because of its excellent condition and architecture. He respectfully disagrees with that statement in the minutes. He noted that being upgraded to significant will be an added cost to the church. For example, if they were to replace the windows, replacement costs would be higher since the building is labeled as significant versus the present condition. As a non-profit organization, it is an undue burden to us that we would have to comply with significant requirements.

Stark commented that there is a far better example of an Italianate house on Prairie Street. She asserted that it is by chance that the house in question tonight is located within the historic district vicinity. However, the house on Prairie Street, which is in better shape, does not have any consideration. Just because this house has some architectural details we are considering it historic, whereas the house on Prairie Street is not. Other houses in town that are not within the historic district should be considered as significant. She requested that this issue be reexamined by the HPC to consider other homes outside of the historic district. Stark stated that she will not be supporting the upgrade. She does not think that it is a great idea that we pay attention to this particular piece of property.

Mayor Schielke stated that when he was president of the Batavia Historical Society about twenty years ago he was approached by the church board about the value of this house. At that point of time, it was of the opinion of the Historical Society that this house had been altered (ex. Addition of siding) and there was no motivation by the Historical Society to upgrade this property as significant. Mayor pointed out that one of the major positive moves of Batavia was the property swap by the Batavia Library District, Bethany Lutheran Church, and the Batavia School District. This allowed for buildings to be moved around and for the Batavia library to be built which now attracts one thousand people a day to downtown Batavia. The swap has resulted in a positive change to the City and Bethany Lutheran Church has gone above and beyond with this swap and accommodating with several parking issues. Mayor stated that given the history of this particular block and all that has transpired, this property really does not have any historical significance. He reiterated that the first time they evaluated this property in 1978 it was considered by the Historical Society that the property did not have much history and too much of the building had been altered and changed to be considered significant. The church has stepped forward and had taken very positive actions for themselves and the City to make Batavia a better place.

Susan Whitson, 2359 Kane Lane, commented on some of the discussion that was reflected in the HPC minutes after the meeting. She stated that if we are looking to attract more people to Batavia she does not know that an old house is going to attract people. She feels that it is congregations and churches, the people who will attract the people to Batavia. Cooperation within the community will attract more people than an old house.

The Committee discussed the parcel and the acquisition of the property. Volk asked staff to consider creating a memo stating what can and cannot be done in the Historical District for new Council members.

Motion: To recommend to Council approval of Ordinance 13-10: An Ordinance updating Historic District Classification for 335 First Street
Maker: Wolff
Second: Sparks
Roll Call Vote: **Aye:** None
Nay: Brown, Wolff, Sparks, Chanzit, Clark, Atac, Stark
0-7 Vote, 0 Absent, Motion failed.

8. Ordinance 13-13: Annexation of a Portion of 910 Garfield Street (Scott Buening 2/19/13)

Buening reported that staff discovered a tiny piece of land that is behind the 910 Garfield Street property that has never been annexed. The property owner does not have any objection to annexing this property and has signed a petition to annex. Staff is recommending approval of this annexation. Brown questioned if there is anything that could be done with this property once it is annexed. Buening responded that the property is being used as a setback and an easement for utilities so basically nothing can be done with the property.

Motion: To recommend to Council approval of Ordinance 13-13: An Ordinance updating Historic District Classification for 910 Garfield Street
Maker: Wolff
Second: Sparks
Roll Call Vote: **Aye:** Brown, Wolff, Sparks, Chanzit, Clark, Atac, Stark
Nay: None
0-7 Vote, 0 Absent, Motion carried.

9. City Grants/Incentives (Jason Bajor 2/26/13)

Bajor discussed his memo addressed to the Committee and the proposed changes to the Façade and Downtown Improvement Grant programs. Bajor commented that staff would like to remove the requirement to have staff request financial statements, tax returns, and applicable credit and background checks from the property owner. With the claw back provision, the property owner who would sign and commit to that agreement certainly would have done their due diligence and demonstrates a partnership within the program. Therefore, staff recommends that the property owner not be subject to a financial analysis with financial statements, tax returns and applicable credit or background checks.

The Committee discussed the process of applying for a grant, prevailing wage, and if receiving a grant is beneficial if having to pay prevailing wage. The Committee directed staff to remove the financial analysis of the property owner per staff's recommendation and draft the ordinance and bring it back to the Committee for review.

Steve Vasilion addressed the Committee. He requested that the Façade Grant Program matching grant remains the same. Having a larger allotment of money makes the program very successful. He commented on the prevailing wage process. Vasilion explained that how the prevailing wage applies in the Historic Preservation Façade Grant Program, the applicant cannot use labor that he or she does themselves towards the matching grant.

Albertson commented that the Façade Grant Program matching grant will remain the same. There is no proposed change to the current amount. Vasilion stated that the amount has been larger in the past and that is what he would like to see it returned to.

Bajor stated that there has been a strong interest in a sign program. Bajor reported that Scott Buening will be discussing a possible signage program with the Committee at a future Community Development Committee meeting.

10. Streetscape (WRM 2/8/13)

McGrath stated that there are no changes to the TIF budget spreadsheet discussed at the last meeting. The City is closing on the property at 111 East Wilson. McGrath discussed the bids from IDOT for the Wilson Street project. The project as a whole is a little over the engineer's estimate. Basquin stated that the City is going forward with Landmark for the contractor. Landmark has not formally accepted but staff is ready to move forward with Landmark. He noted that the delay is due to IDOT, the slow response time from IDOT and other technicalities.

McGrath discussed the issues with lighting the River Street Arch. He noted that the design chosen was not created with lighting and has been making lighting of the structure difficult. Tenuta commented that she has had great concerns with how long this process has taken. She feels that lights are important and she would like the gateway feature well-lit. She feels that this particular design is being forced and is not feeling that this particular structure is fitting what River Street needs. O'Brien stated that a combined effort is not happening with this design. All of the work is being done by email and what really needs to be done is a meeting with all of the stakeholders within the same room.

Due to the time of the meeting, and the importance of the topic, the Committee requested that the discussion on the arch be continued to the next CDC meeting.

11. Project Status Update

Buening reported that one of the City's building inspectors has submitted their resignation. Staff has posted the job and the deadline is March 15th.

12. Other

There were no other items to be discussed at this time.

13. Matters From the Public

There were no matters from the public.

14. Adjournment

There being no other business to discuss, Chair Brown asked for a motion to adjourn the meeting at 7:47pm; Made by Wolff; Seconded by Stark. Motion carried.

Minutes respectfully submitted by Jennifer Austin-Smith