

BATAVIA DEVELOPMENT CORPORATION
Meeting Minutes April 25, 2018

CREEK PARK BATAVIA LLC MEETING MINUTES
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Attendees: Pier Cipollone, Matt Worth, Wesley Bedford, Lori Aratari, Mary Valle, Steve Pies, Peter Casey and Julie Pacatte (staff)

Guests: Tom Lichtenthal and Greg Post, Town of Batavia Engineer & Supervisor, respectively
Bob Murray, Harris Beach PLLC via phone

7:30am Call to Order by Pier Cipollone

MOTION to approve April 12, 2018 meeting minutes as distributed.

Mary Valle 2nd Lori Aratari vote: carried

Matt Worth, Interim City Manager, indicated he would be recusing himself should discussion of the Ellicott Trail easement negotiations between Creek Park Batavia LLC and City of Batavia come forward.

Governance

Co-Managing Members of Creek Park Batavia LLC (Julie Pacatte & Pier Cipollone) reviewed Public Authority Governing Principles to emphasize transparency, fiduciary duty, Board independence and accountability. Fiduciary Duty was further defined as an oath to act in the best interest of the Batavia Development Corporation (BDC)/its subsidiaries and People of the State of New York whom the BDC serves

Ellicott Trail Presentation in Open Session

Town of Batavia, Lichtenthal & Post, presented a general overview, timeline and status of the Ellicott Trail project. A packet was distributed to members illustrating the trail traversing the City of Batavia, historic imagery of 60 Evans Street and an excerpt of the Ellicott Trail Phase 1 Environmental Site Assessment (ESA) prepared by Barton & Loguidice, July 2015. The Town representatives reiterated that 60 Evans Street Right of Way easement was eminently necessary to advance the project in a timely fashion so not to jeopardize \$1.3M TEP grant funding.

Current plans call for 6" topsoil and added fill only where the proposed bridge abutment will be placed on the southwestern edge of the 60 Evans Street parcel in order to cross the Tonawanda Creek. Based on 45 years work experience, the Town Supervisor recalled no contamination threats at 60 Evans Street. The Town Engineer referenced the Phase I ESA recommendations that project drawings and documents should include proper removal, handling and disposal of contaminated soil, if encountered. The Town Engineer confirmed that the project does not require a Phase II ESA; therefore, soil sampling is not planned.

Creek Park Batavia LLC leadership expressed concerns related to the potential environmental risks associated with 60 Evans Street as summarized by LaBella Associates in an April 10, 2018 memo prepared for the BDC leadership. The referenced memo was also previously distributed to the Town and City of Batavia, each verbally acknowledging receipt but dismissed as not delineating the proposed Ellicott Trail location as they claim was a former railroad and or siding only neither of which pose significant risk, in their opinion.

Town of Batavia representatives expressed their desire to commence immediate negotiations for the purchase of 60 Evans Street directly with the current owners, relieving the BDC/Creek Park Batavia LLC of its current role to expedite the transaction.

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8:30am Creek Park Batavia LLC leadership consensus to withdraw its purchase/sale agreement, cease the property title abstract and property appraisal efforts immediately to allow the Town of Batavia to proceed with the property transaction.

“In the spirit if partnership”, the BDC/Creek Park Batavia LLC leadership was reassured by both the Town of Batavia and City representatives that future land assembly and redevelopment efforts would be mutually supported.

8:45am Lori Aratari exited meeting, quorum remains
Town representatives exited the meeting

Analogy shared to recap the conversation and general commitment expressed to protect public health.

8:52am Creek Park Batavia LLC meeting adjourned

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Attendees: Pier Cipollone, Matt Worth, Wesley Bedford, Steve Pies, Peter Casey, Mary Valle and Julie Pacatte (staff)
Guests: None

8:53am Call to Order by Pier Cipollone

MOTION to approve the March 28, 2018 meeting minutes with one edit adding Barb Shine as a guest, Shine was in attendance for The Wild Rican presentation and discussions.

Steve Pies 2nd Wesley Bedford vote: carried

MOTION to approve the April 12, 2018 meeting minutes as distributed.

Peter Casey 2nd Matt Worth vote: carried

Governance: Board member recruitment, candidates identified, Pier to follow-up
PTO Policy and Conflict of Interest policies to be reviewed in 2018
BDC may consider seeking 501© 3 designation v current 501 ©4 designation as it may open more grant opportunities

Finance/Audit: Annual Audit slated May 18th, Freed Maxick to be onsite
City – BDC Economic Development Svc Contract Renewal may be presented to City Council for authorization, Matt Worth to set-up for May Conference Agenda
Organizational Balance Sheet reviewed with the Board

Marketing: Successful advocacy efforts resulted in State funding for BOA, opposing the “prevailing wage” bill and inclusion of City of Batavia Wards 3&6 in the NYS Opportunity Zone proposal to the Federal Govt

Small Business: freshLAB EDEN is open for business, The Wild Rican grand opening slated mid-May
City of Batavia working through the NYS OCR mandate to identify and plan spending for “Program Income”, it should eliminate the “Small Cities” program but the “BDC Fund” should remain as-is
Request a Lacy Katzen status report for distribution at the May meeting

Real Estate: Discussion of the Savarino request to extend the Ellicott Station LLC Membership Sale Agreement Notes payable date and reversion clause to July 2018

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MOTION to extend the Ellicott Station LLC Membership Sale Agreement call date for Notes A&B to July 31, 2018 and delay exercising the reversion clause as such.

Peter Casey 2nd Steve Pies vote: carried

Follow-up with ESD to identify firm deadlines so not to jeopardize \$1.9M capital grant
Steve Pies exit, quorum remains (5/9 members)

MOTION to enter Executive Session to discuss personnel matters and new hiring process.

Peter Casey 2nd Mary Valle vote: carried

BDC Resignation Final Pay-Out Computation reviewed. Pier Cipollone and Mary Valle designated "Hiring Committee Chairpersons". Proposed new hire timeline presented as job posting May 1, resume reviews upon receipt, formal screening before May Board meeting. Anticipate interviews June, new coordinator/director start by July 2018.

MOTION to approve the BDC Resignation Final Computation upon Lisa Neary, City of Batavia Deputy Director of Finance, confirmation of accuracy.

Peter Casey 2nd Mary Valle vote: carried

BDC Board to consider professional transitional services until a new Executive Director is hired.

9:49am Meeting Adjourned