

**RESOLUTION NO. 39**

A meeting of the Town Board of the Town of Batavia, in the County of Genesee, New York, was held at the Town Hall, in said Town, on January 13, 2015.

**PRESENT:**

- Hon. Gregory H. Post, Town Supervisor
- Hon. Daniel Underhill, Councilman
- Hon. Alfred Lang, Councilman
- Hon. Patti Michalak, Councilwoman
- Hon. Chad Zambito, Councilman

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In the Matter  
of the

Establishment of the Commerce Parks  
Sewer Improvement Area, in the Town of  
Batavia, County of Genesee, New York,  
pursuant to Article 12-C of the Town Law.

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**ORDER CALLING PUBLIC  
HEARING TO BE HELD ON  
JANUARY 28, 2015  
REGARDING THE PROPOSED  
ESTABLISHMENT OF THE COMMERCE PARKS  
SEWER IMPROVEMENT AREA**

WHEREAS, the Town Board of the Town of Batavia (herein called "Town Board" and "Town", respectively), in the County of Genesee, New York, has, pursuant to Town Law Article 12-C, caused the Town of Batavia Engineering Department (the "Engineer"), competent engineers duly licensed by the State of New York to prepare a preliminary map, plan and report for the establishment of the Commerce Parks Sewer Improvement Area and the undertaking of sewer improvements therein; and

WHEREAS, the Engineer has completed and filed with the Town Board such preliminary map, plan and report and such preliminary map, plan and report is available for public inspection in the Office of the Town Clerk; and

WHEREAS, such sewer system improvements project will generally consist of the purchase of a portion of additional sewer capacity from the City of Batavia and the acquisition of sanitary flow meters to monitor the amount of wastewater transmitted from the Town, as well as other such improvements as more fully identified in such map, plan and report referred to above, all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the "Improvement"); and

WHEREAS, the proposed Improvement will benefit the entire proposed Commerce Parks Sewer Improvement Area, which area is outside of any incorporated villages and is described as follows:

The boundary of the Town of Batavia, Commerce Parks Sanitary Sewer Improvement Area includes all that tract or parcel of land situated in the Town of Batavia, County of Genesee, State of New York, being described as follows:

Beginning at a point which is the intersection of the easterly right-of-way of Oak Orchard Road and the centerline of West Saile Drive; thence,

1. Northerly, along the easterly right-of-way of Oak Orchard Road, a distance of 582 feet, more or less, to The northwesterly corner of Tax Parcel number 4.-1-23.1; thence,
2. Easterly, along the northerly line of Tax Parcel numbers 4.-1-23.1 and 4.-1-23.2, a distance of 1099 feet, more or less, to the northeasterly corner of Tax Parcel number 4.-1-23.2; thence,
3. Northerly, along the westerly line of Tax Parcel number 4.-1-22.12, a distance of 273 feet, more or less, to the northwesterly corner of Tax Parcel number 4.-1-22.12; thence,
4. Easterly, along the northerly line of Tax Parcel number 4.-1-22.12, along the easterly extension of the northerly line of Tax Parcel number 4.-1-22.12 through the lands of Tax Parcel number 4.-1-21.1 and across State Street Road (49.5 feet wide right-of-way), and continuing along the northerly line of Tax Parcel number 4.-1-47, a distance of 1215 feet, more or less, to the northeasterly corner of Tax Parcel number 4.-1-47; thence,
5. Southerly, along an easterly line of Tax Parcel number 4.-1-47, a distance of 515 feet, more or less, to the northeasterly corner of Tax Parcel number 4.-1-22.115; thence,
6. Easterly, along the northerly line of Tax Parcel numbers 4.-1-45.1 and 4.-1-22.21, a distance of 760 feet, more or less, to a southeasterly corner of Tax Parcel number 4.-1-42.1; thence,
7. Northerly, along a westerly line of Tax Parcel number 4.-1-22.21, a distance of 21 feet, more or less, to a northwesterly corner of Tax Parcel number 4.-1-22.21; thence,
8. Easterly, along the northerly line of Tax Parcel numbers 4.-1-22.21 and 4.-1-43.121, a distance of 673 feet, more or less, to the northeasterly corner of Tax Parcel number 4.-1-43.121; thence,
9. Northerly, along the westerly line of Tax Parcel numbers 5.-1-105 and 5.-1-66, a distance of 1001 feet, more or less, to The northwesterly corner of Tax Parcel number 5.-1-66; thence,
10. Easterly, along the northerly line of Tax Parcel number 5.-1-66, a distance of 3259 feet, more or less, to the intersection of the northerly extension of the easterly line of Tax Parcel number 5.-1-104.2 and the northerly line of Tax Parcel number 5.-1-66; thence,
11. Southerly, along the northerly extension of the easterly line of Tax Parcel number 5.-1-104.2 through the lands of Tax Parcel number 5.-1-66 and across East Saile Drive (50 feet wide right-of-way) and continuing along the easterly line of Tax Parcel number 5.-1-

- 104.2, a distance of 1821 feet, more or less, to the southeasterly corner of Tax Parcel number 5.-1-104.2; thence,
12. Westerly, along the southerly line of Tax Parcel numbers 5.-1-104.2 and 5.-1-104.12, a distance of 1051 feet, more or less, to the southwesterly corner of Tax Parcel number 5.-1-104.12; thence,
  13. Southerly, along the easterly line of Tax Parcel number 5.-1-103.21, a distance of 395 feet, more or less, to the southeasterly corner of Tax Parcel number 5.-1-103.21; thence,
  14. Westerly, along the southerly line of Tax Parcel numbers 5.-1-103.21 and 5.-1-103.11, a distance of 1538 feet, more or less, to a southwesterly corner of Tax Parcel number 5.-1-103.11; thence,
  15. Northerly, along a westerly line of Tax Parcel number 5.-1-103.11, a distance of 192 feet, more or less, to the northeasterly corner of Tax Parcel number 5.-1-98; thence,
  16. Westerly, along a southerly line of Tax Parcel number 5.-1-103.11, a distance of 192 feet, more or less, to a southwesterly corner of Tax Parcel number 5.-1-103.11; thence,
  17. Northerly, along a westerly line of Tax Parcel number 5.-1-103.11, a distance of 310 feet, more or less, to the northeasterly corner of Tax Parcel number 5.-1-101; thence,
  18. Westerly, along the northerly line of Tax Parcel number 5.-1-101 and following the westerly extension of the northerly line of Tax Parcel number 5.-1-101 across State Street Road (49.5 feet wide right-of-way), a distance of 232 feet, more or less, to the intersection of the westerly extension of the northerly line of Tax Parcel number 5.-1-101 and the westerly right-of-way of State Street Road; thence,
  19. Southerly, along the westerly right-of-way of State Street Road, a distance of 2425 feet, more or less, to the southeasterly corner of Tax Parcel number 4.-1-26.111; thence,
  20. Westerly, along the southerly line of Tax Parcel number 4.-1-26.111 and continuing along the westerly extension of the southerly line of Tax Parcel number 4.-1-26.111 across Oak Orchard Road (66 feet wide right-of-way) a distance of 3777 feet, more or less, to a southeasterly corner of Tax Parcel number 4.-1-27.11; thence,
  21. Southerly, along the easterly line of Tax Parcel number 8.-1-44.1, following the westerly right-of-way of Oak Orchard Road across Federal Drive (60 feet wide right-of-way), and continuing along the easterly line of Tax Parcel numbers 8.-1-64 and 8.-1-63.114, distance of 1111 feet, more or less, to a southeasterly corner of Tax parcel number 8.-1-63.114; thence,
  22. Westerly, along the southerly line of Tax Parcel numbers 8.-1-63.114, 8.-1-71, 8.-1-70, 8.-1-63.112, 8.-1-63.12, 8.-1-63.2, and 8.-1-46, a distance of 3367 feet, more or less, to the southwesterly corner of Tax Parcel number 8.-1-46; thence,
  23. Northerly, along the westerly line of Tax Parcel number 8.-1-46, a distance of 1511 feet, more or less, to the northwesterly corner of Tax Parcel number 8.-1-46; thence,
  24. Easterly, along the northerly line of Tax parcel numbers 8.-1-46, 8.-1-67, 8.-1-69, 8.-1-45.116, 8.-1-45.117, and 8.-1-44.1, a distance of 2257 feet, more or less, to the intersection of the southerly extension of the westerly line of Tax Parcel number 4.-1-27.2 and the northerly line of Tax Parcel number 8.-1-44.1; thence,

25. Northerly, along the southerly extension of the westerly line of Tax Parcel number 4.-1-27.2 through the lands of Tax Parcel number 4.-1-27.11 and along the westerly line of Tax Parcel number 4.-1-27.2, a distance of 937 feet, more or less, to the northwesterly corner of Tax Parcel number 4.-1-27.2; thence,
26. Easterly, along the northerly line of Tax Parcel number 4.-1-27.2 and across Oak Orchard Road (66 feet wide right-of-way), a distance of 467 feet, more or less, to the northwesterly corner of Tax Parcel number 4.-1-26.112; thence,
27. Northerly, along the easterly right-of-way of Oak Orchard Road, a distance of 1734 feet, more or less, to the point of beginning.

All as shown on the map prepared by the Town of Batavia entitled, "Commerce Parks Sanitary Sewer Improvement Area – Sewer Capacity Purchase," dated 1/2015. The Town of Batavia, Commerce Parks Sanitary Sewer Improvement Area, as described above, contains approximately 513.3 acres of land.

WHEREAS, the Improvement will provide the proposed Commerce Parks Sewer Improvement Area with the capacity necessary to allow for the service of wastewater disposal while taking advantage of the existing sanitary sewer system and wastewater treatment facility; and

WHEREAS, the overall capital improvement project cost is estimated to be \$2,500,000; and

WHEREAS, the Engineer has estimated the cost of the Improvement that the proposed Commerce Parks Sewer Improvement Area will be responsible for is \$454,545; said cost to be financed by the issuance of serial bonds of the Town in the aggregate amount of \$454,545, offset by any federal, state, county and/or local funds received; and

WHEREAS, the balance of the project will be authorized through separate Town proceedings.

NOW, THEREFORE, BE IT ORDERED, that a meeting of the Town Board of the Town be held at the Town Hall, Batavia, New York, on January 28, 2015, at 7:20 o'clock P.M. (Prevailing Time) to consider the establishment of the proposed Commerce Parks Sewer Improvement Area and the construction of the improvement therein, and to hear all persons interested in the subject thereof, concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law; and be it

FURTHER ORDERED, that the Town Board may establish sewer rents as provided in subdivision 12-a of Town Law Section 209-q and paragraph (1) of subdivision one of Town Law Section 198; and it is hereby

FURTHER ORDERED, the estimated maximum amount proposed to be expended for the construction of the Commerce Parks Sewer Improvement Area shall be financed by the issuance of serial bonds of the Town in an aggregate amount not to exceed \$454,545, said amount to be offset by any federal, state, county and/or local funds, and unless paid from other sources or charges (including, but not limited to, sewer rents), the costs of said establishment shall be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the proposed Commerce Parks Sewer Improvement Area, which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law; and be it

FURTHER ORDERED, that the Town Clerk publish at least once in the newspaper designated as the official newspaper of the Town for such publication, and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten nor more than 20 days before the date of such public hearing.

DATED: January 13, 2015

TOWN BOARD OF THE  
TOWN OF BATAVIA

The adoption of the foregoing Order Calling for Public Hearing was duly put to a vote on roll call, which resulted as follows:

AYES:           Councilman Lang  
                  Councilman Underhill  
                  Councilwoman Michalak  
                  Councilman Zambito  
                  Supervisor Post

NOES:

ABSENT:

The Order Calling for Public Hearing was declared adopted.