

JUNE 21, 2006
REGULAR TOWN BOARD MEETING

Town Hall

7:00 P.M.

David Diegelman, Boy Scout led the pledge to the flag.

Roll Call

Present: Supervisor Post
Councilman Underhill
Councilwoman Michalak
Councilman Gerace

Absent: Councilman Zambito

Others

Present: Town Clerk Morasco
Building Inspector Worthington

The Supervisor called the meeting to order at 7:00 P.M.

MINUTES:

May 17, 2006 Public Hearing-“Governor’s Office for Small Cities Grant Program”, May 17, 2006 Public Hearing-“Proposed Establishment of Putnam & Shepard Roads”, May 17, 2006 Public Hearing- “An ordinance to Amend the code by adding Outdoor Recreation Facility as a Use Requiring a Special Use Permit, May 17, 2006 Regular Town Board Meeting, and May 26, 2006 Special Town Board Meeting: Motion Councilman Zambito, second Councilman Underhill to approve the minutes as written.

MOTION CARRIED by unanimous vote (5-0)

Speakers: Jason Tomporowski, Town Resident addressed the Town Board regarding the continuous problem with the noise from the Motorsports Parks on Harloff Road. The noise is deafening, which they have to deal with it on a daily basis, including waking to it each Sunday morning. Mr. Tomporowski is also concerned with the added sound system and informed the Town Board that Camper Trailers are there all weekend, backed up against the Town fence.

Joyce Diegelman, Town Resident informed the Town Board that the racing last Friday evening ended after 11:00 P.M.

Clint Worthington, Code Enforcement Officer/Building Inspector commented that these businesses have a Special Use Permits, which can be reviewed annually by the Planning Board. The Planning Board is taking the residents serious and is going to review these permits, possibly in August. Mr. Worthington will discuss this further with the Planning Board.

Supervisor Post asked the residents for their consideration to allow the Planning Board and Code Enforcement to investigate this issue.

RESOLUTION NO. 97:

Councilman Underhill offered the following:

**RESOLUTION TO SCHEDULE A SPECIAL ELECTION
FOR A REFERENDUM UPON THE PUTNAM AND SHEPARD ROADS**

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WATER DISTRICT IN THE TOWN OF BATAVIA, NEW YORK

WHEREAS, a map, plan and report was filed in the Batavia Town Clerk's Office on April 5, 2006, describing the boundaries of the proposed Water District to be located upon portions of Putnam and Shepard Roads, and setting forth other requirements concerning the same, and

WHEREAS, a "Resolution Creating Town of Batavia Putnam and Shepard Roads Water District in the Town of Batavia, Subject to Permissive Referendum and Approval of State Comptroller" was passed by the Town Board on May 17, 2006, subject to a permissive referendum, and

WHEREAS, a "Notice of Adoption of Resolution for Putnam and Shepard Roads Water District Subject to Permissive Referendum" was duly published in The Daily News on May 20, 2006, and

WHEREAS, a Petition was filed with the Town on June 12, 2006, within the allowable time period for the same, and said Petition requested a referendum vote upon this issue;

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Batavia, New York, that a Special Election to hold a Referendum upon the proposed Putnam and Shepard Roads Water District in the Town of Batavia shall be held at the Batavia Town Hall, located at 3833 West Main Street Road, Batavia, New York, on August 15, 2006, continuously between the hours of 2:00 p.m. and 8:00 p.m. on said date to consider the following proposition:

"PROPOSITION 1: Shall the proposed Putnam and Shepard Roads Water District of the Town of Batavia, New York be approved upon those portions of Putnam and Shepard Roads Roads as bounded and described in a map, plan and report filed in the Batavia Town Clerk's Office on April 5, 2006, pursuant to the terms and conditions as further set forth in said map, plan and report."

BE IT FURTHER RESOLVED, that the following terms and conditions and eligibility requirements for said Referendum shall apply:

1. All owners of taxable real property located within the proposed Water District, as shown upon the latest completed assessment roll of the Town of Batavia, are eligible to vote, provided that they are citizens of the United States, and are eighteen (18) years of age or older on the day of such Special Election.
2. The Town of Batavia Assessor shall prepare a list of all owners of taxable real property within the District and provide the same to the Town Clerk, to be used by the Town Clerk to determine eligibility to vote at the Special Election.
3. All eligible voters must personally appear during the time and date designated. There will be no provisions for absentee ballots.
4. Each individual owner or joint owner who is entitled to vote, may cast only a single ballot. Every person or entity that owns more than one parcel within the proposed Water District is entitled only to a single vote.

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5. Multiple owners of real property, such as joint tenants, tenants in common, and tenants by the entirety, are each entitled to a single vote. (For example, a Husband and Wife who jointly own property or properties would be allowed to have the Husband cast one vote and the Wife to cast one vote.)

6. A corporate owner of such taxable real property shall be considered one owner and shall be entitled to one vote to be cast by an officer or agent of the corporation or any other duly authorized person designated by an appropriate resolution of such corporation.

7. Individuals who reside within the proposed Water District who do not own property, (for example, renters), are not eligible to vote.

8. All eligible owners of taxable real property who meet the foregoing qualifications may vote regardless of the physical residence of individuals or the principle place of business of a corporate entity.

9. Individuals who are eligible as set forth above, do not have to be registered voters with the Board of Elections in order to cast a ballot in this Referendum.

10. Approval of the proposed Water District or disapproval of the same shall be decided by the vote of the majority of the eligible owners who actually cast a ballot upon such proposition at the Special Election.

BE IT FURTHER RESOLVED, that the Town Clerk of the Town of Batavia is hereby authorized and directed to publish a copy of this Proposition along with the times and dates of the Special Election in **The Daily News** and post copies of the same on the sign board of the Town of Batavia, in the time and manner required by law.

Dated: June 21, 2006
Batavia, New York

Second by: Councilman Zambito
APPROVED by unanimous vote (5-0)

**NOTICE OF SPECIAL ELECTION FOR A REFERENDUM UPON THE
PUTNAM AND SHEPARD ROADS WATER DISTRICT IN
THE TOWN OF BATAVIA, NEW YORK**

NOTICE IS HEREBY GIVEN, that at a regular meeting held on the 21st day of June, 2006, the Town Board of the Town of Batavia duly adopted a Resolution scheduling a Special Election to be held at the Batavia Town Hall, located at 3833 West Main Street Road, Batavia, New York, on August 15, 2006, between the hours of 2:00 p.m. and 8:00 p.m. to consider the following proposition:

PROPOSITION 1: Shall the proposed Putnam and Shepard Roads Water District of the Town of Batavia, New York be approved upon those portions of Putnam and Shepard Roads Roads as bounded and described in a map, plan and report filed in the Batavia Town Clerk's Office on April 5, 2006, pursuant to the terms and conditions as further set forth in said map, plan and report.

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Eligible owners of taxable real property located within the proposed Water District which runs along portions of Putnam and Shepard Roads, must appear in person to cast a ballot, pursuant to eligibility requirements and terms and conditions as more fully set forth in said Resolution. A copy of this Resolution is available for inspection at the Town Hall during the regular office hours of the Batavia Town Clerk.

Dated: June 22, 2006

Teresa M. Morasco, Town Clerk
Town of Batavia

SPECIAL ELECTION BALLOT

PROPOSITION 1: Shall the proposed Putnam and Shepard Roads Water District of the Town of Batavia, New York be approved upon those portions of Putnam and Shepard Roads Roads as bounded and described in a map, plan and report filed in the Batavia Town Clerk's Office on April 5, 2006, pursuant to the terms and conditions as further set forth in said map, plan and report.

I approve of the proposed
Water District

_____ Yes

I object to the proposed
Water District

_____ No

Mark with an "X" on only one line above.

RESOLUTION NO. 98:

Supervisor Post offered the following:

RESOLUTION TO INTRODUCE PROPOSED LOCAL LAW #2 OF 2006

WHEREAS, the Town Board of the Town of Batavia, New York desires to consider adopting legislation to assist the development of infrastructure in order to allow the Genesee County Industrial Development Agency, d/b/a Genesee County Economic Development Center (GCEDC) to develop the project known as Gateway II Corporate Park, and

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WHEREAS, the Town Attorney has reviewed the proposed mechanism for the Town of Batavia to assist in this project, and

WHEREAS, it has been determined that the Town of Batavia has authority pursuant to its Municipal Home Rule Law powers to enter into an agreement with GCEDC in order to authorize a grant to this Industrial Development Agency for the purpose of facilitating the planning, design and construction of roadway improvements for the Gateway II Corporate Park,

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York that proposed Local Law #2 of 2006 entitled "A Local Law Authorizing a Grant to the Genesee County Industrial Development Agency Regarding Gateway II Corporate Park", which proposed Local Law is now in its final form as appears by a copy thereof hereto attached, be and the same hereby is introduced for adoption; and

BE IT FURTHER RESOLVED that said proposed Local Law be laid upon the desks of the members of this Town Board on this date and remain there and a copy thereof be kept on file in the office of the Town Clerk until July 19, 2006, and that a public hearing be held before this Town Board on the 19th day of July, 2006, at 6:30 p.m. at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, on the advisability of enacting said proposed Local Law; and

BE IT FURTHER RESOLVED that a copy of said proposed Local Law be mailed to each member of the Town Board not in attendance at this meeting in a postpaid, properly addressed and securely closed envelope in a post box within the Town of Batavia, New York not less than ten (10) calendar days, exclusive of Sunday, prior to the date of said public hearing; and

BE IT FURTHER RESOLVED that the Town Clerk shall cause notice of said public hearing to be published once in The Daily News at least five (5) days prior to the date of said public hearing, which notice shall contain the time and place of said hearing, the title and purpose thereof, as well as a statement that a copy of said proposed Local Law is on file in the Town Clerk's Office.

Dated: Batavia, New York

June 21, 2006

Second by: Councilman Underhill
APPROVED by unanimous vote (5-0)

NOTICE OF PUBLIC HEARING BY THE TOWN BOARD
OF THE TOWN OF BATAVIA, NEW YORK
TO CONSIDER ADOPTING A PROPOSED LOCAL LAW

PUBLIC NOTICE is hereby given that there has been presented to the Town Board of the Town of Batavia, New York on the 21st day of June, 2006, proposed Local Law #2 of 2006 entitled "A Local Law Authorizing a Grant to the Genesee County Industrial Development Agency Regarding

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Gateway II Corporate Park". Said Local Law will authorize the Town of Batavia to grant the sum of \$225,000.00 to the Genesee County Industrial Development Agency, d/b/a Genesee County Economic Development Center (GCEDC) in order to allow the GCEDC to plan, design and construct roadway improvements to facilitate the establishment of a project in the Town of Batavia entitled Gateway II Corporate Park.

PLEASE TAKE FURTHER NOTICE that on 19th day of July, 2006, at 6:30 o'clock in the afternoon of that day the Town Board of the Town of Batavia, New York will conduct a public hearing at the Batavia Town Hall located at 3833 West Main Street Road in the Town of Batavia, New York for the purpose of considering the advisability of enacting said proposed Local Law, at which time and place all persons interested will be heard.

A copy of said proposed Local Law is on file at the office of the Batavia Town Clerk, 3833 West Main Street, Batavia, New York and is open for inspection during regular Office hours.

Dated: Batavia, New York
June 21, 2006

Teresa M. Morasco, Town Clerk
Town of Batavia, New York

RESOLUTION NO. 99:

Councilwoman Michalak offered the following:

GENESEE COUNTY AGRICULTURAL SOCIETY
FIREWORKS PERMIT

WHEREAS, the Genesee County Agricultural Society wishes to display fireworks during their annual Genesee County Fair from July 19th to July 22nd; and

WHEREAS, a permit from the Town of Batavia is required to do so.

RESOLVED, the Batavia Town Board hereby authorizes the granting of a fire works permit to the Genesee County Agricultural Society from July 19th to July 22nd.

Second by: Councilman Zambito
APPROVED by **unanimous vote** (5-0)

RESOLUTION NO. 100:

Councilman Gerace offered the following:

TERRY HILLS RESTAURANT
SAM AND MARY GRACE PARADISE
FIREWORKS PERMIT

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WHEREAS, Terry Hills Restaurant and Sam and Mary Grace Paradise wish to display fireworks on Sunday, June 25, 2006; and

WHEREAS, a permit from the Town of Batavia is required to do so.

RESOLVED, the Batavia Town Board hereby authorizes the granting of a fire works permit to Terry Hills Restaurant and Sam and Mary Grace Paradise for Sunday, June 25, 2006.

Second by: Councilman Zambito

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 101:

Councilman Zambito offered the following:

BID SOLICIATIONS – WATERMAIN
LOVERS LANE ROAD

WHEREAS, the Town of Batavia wishes to construct a watermain along Lovers Lane Road with approximately 5,600 linear feet of 8” DR18 PVC waterline;

WHEREAS, pursuant to Town Law a bid solicitation for this project is required;

WHEREAS, pursuant to Town Law the bid invitation must be published in the Town’s official newspaper at least five (5) days prior to the scheduled opening.

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to publish the bid invitation in the Town’s official newspaper, “The Batavia Daily News”, at least five days prior to the scheduled bid opening date.

FURTHER RESOLVED, once it is published, the bidders be given at least two weeks to respond.

Second by: Councilman Gerace

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 102:

Councilman Underhill offered the following:

BID SOLICIATIONS – SEWER AND DRAINAGE IMPROVEMENTS
LEWISTON ROAD SEWER & STORM WATER IMPROVEMENTS

WHEREAS, the Town of Batavia wishes to construct a sewer main and drain line/swale from Lewiston Road to West Main Street with approximately 1,160 linear feet of PVC sewer line and approximately 880 linear feet of storm pipe.

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WHEREAS, pursuant to Town Law a bid solicitation for this project is required;

WHEREAS, pursuant to Town Law the bid invitation must be published in the Town's official newspaper at least five (5) days prior to the scheduled opening.

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to publish the bid invitation in the Town's official newspaper, "The Batavia Daily News", at least five days prior to the scheduled bid opening date.

FURTHER RESOLVED, once it is published, the bidders be given at least two weeks to respond.

Second by: Councilman Zambito

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 103:

Supervisor Post offered the following:

OUT OF DISTRICT WATER AGREEMENT
BETWEEN TOWN OF BATAVIA AND WELLSVILLE CARPET TOWN, INC.

WHEREAS, the Town is the owner of the Consolidated Water District in the Town of Batavia, New York, which Water District provides water service to residents and business' of the Town in general; and

WHEREAS, Wellsville Carpet Town, Inc. owns commercial property located at 7795 Call Parkway in the Town of Batavia, New York which parcel of property is in close proximity to the Batavia Consolidated Water District Facilities on West Saile Drive and Oak Orchard Road; and

WHEREAS, Wellsville Carpet Town, Inc. have requested permission to become customers and to purchase water from the Town of Batavia; and

WHEREAS, in the case of Out-of-District water service a water agreement must be executed between the Town of Batavia and the owner of the property designated as Out-of-District water connections.

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the water agreement between the Town of Batavia and Wellsville Carpet Town, Inc., owner of property located at 7795 Call Parkway, Batavia, New York.

Second by: Councilman Underhill

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 104:

Councilwoman Michalak offered the following:

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RESOLUTION SUPPORTING ASSEMBLY BILLS

RESOLVED, the Town Board of the Town of Batavia hereby supports the following Assembly Bills:

A00110, Entitled “An act to amend the alcoholic beverage control law and the vehicle and traffic law, in relation to the imposition of drivers license suspensions upon persons who fail to pay fines upon a determination by the court of unlawful possession of an alcoholic beverage with the intent to consume by persons under the age of twenty-one years” and

A02638, Entitled, “An act to amend the penal law, in relation to the imposition of drivers license suspensions upon persons who fail to pay fines upon conviction of unlawful possession of marihuana”.

Second by: Councilman Zambito

APPROVED by unanimous vote (5-0)

SUSPEND THE RULES: Motion Councilman Underhill, second Councilman Gerace to suspend the rules to introduce an additional resolutionS.

MOTION CARRIED by unanimous vote (5-0)

RESOLUTION NO. 105:

Councilman Gerace offered the following:

**TOWN OF BATAVIA
SEQR - LEAD AGENCY RESOLUTION**

PEARL STREET ROAD PUBLIC WATER EXTENSION

“RESOLVED, that in accordance with the New York State Environmental Quality Review (SEQR) regulations, the Town Board of the Town of Batavia hereby announces its intent to serve as lead agency to conduct an environmental review of a project to extend public water improvements to serve residents along Pearl Street Road (NYS Route 33). In accord with the likelihood that the Town Board will serve as lead agent, the Board has prepared an Environmental Assessment of the significance of and potential environmental impact of the proposed project, as described below.

The project consists of approximately 2,700 linear feet of watermain along the portion of Pearl Street Road between Hartshorn/Wilkinson Street Road and the Batavia/Pembroke Town line. Activities include the installation of watermain, fire hydrants, valves, water services, appurtenances, and surface restoration.

FURTHER RESOLVED, the Town Board has determined that, as a segment of the project is located in a Genesee County Agricultural District, the proposed action is a Type I action as defined under SEQR; and, be it

FURTHER RESOLVED, that The Town Board hereby accepts the Environmental Assessment of

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this project, prepared by Stuart I. Brown Associates, Inc., and be it

FURTHER RESOLVED, the Town Board will notify the Involved Agencies of its intention to act as Lead Agency for this project and will provide them with a copy of the full Environmental Assessment Form. The Town Board further declares that, based on the Environmental Assessment which has been prepared, it finds that the project will result in no significant damage to the environment. Therefore, the Town Board does not anticipate the preparation of an Environmental Impact Statement for the project. Further, the Town Board herewith states its intent to issue a Negative Declaration under SEQR for the project, pending review by Involved Agencies.

Second by: Councilman Underhill
APPROVED by unanimous vote (5-0)

RESOLUTION NO. 106:

Councilman Zambito offered the following:

TOWN OF BATAVIA
SEQR - LEAD AGENCY RESOLUTION

WILKINSON ROAD PUBLIC WATER EXTENSION

“RESOLVED, that in accordance with the New York State Environmental Quality Review (SEQR) regulations, the Town Board of the Town of Batavia hereby announces its intent to serve as lead agency to conduct an environmental review of a project to extend public water improvements to serve residents along Wilkinson Road. In accord with the likelihood that the Town Board will serve as lead agent, the Board has prepared an Environmental Assessment of the significance of and potential environmental impact of the proposed project, as described below.

The project consists of approximately 4,400 linear feet of watermain along the portion of Wilkinson Road from Pearl Street Road (NYS Route 33) to 100 feet south of Lear Road. Activities include the installation of watermain, fire hydrants, valves, water services, appurtenances, and surface restoration.

FURTHER RESOLVED, the Town Board has determined that, as a segment of the project is located in a Genesee County Agricultural District, the proposed action is a Type I action as defined under SEQR; and, be it

FURTHER RESOLVED, that The Town Board hereby accepts the Environmental Assessment of this project, prepared by Stuart I. Brown Associates, Inc., and be it

FURTHER RESOLVED, the Town Board will notify the Involved Agencies of its intention to act as Lead Agency for this project and will provide them with a copy of the full Environmental Assessment Form. The Town Board further declares that, based on the Environmental Assessment which has been prepared, it finds that the project will result in no significant damage to the environment. Therefore, the Town Board does not anticipate the preparation of an Environmental Impact Statement for

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the project. Further, the Town Board herewith states its intent to issue a Negative Declaration under SEQR for the project, pending review by Involved Agencies.

Second by: Councilman Underhill
APPROVED by unanimous vote (5-0)

RESOLUTION NO. 107:

Councilman Underhill offered the following:

STAFF RETIREMENT REPORTING

RESOLVED, the Town Board of the Town of Batavia will report to the New York State And Local Retirement System the following: Town Supervisor, Town Council, Town Clerk, Town Justice, and Highway Superintendent as Full-Time Status.

Second by: Councilman Gerace
APPROVED by unanimous vote (5-0)

RESOLUTION NO. 108:

Supervisor Post offered the following:

NETWORK SECURITY ASSESSMENT

RESOLVED, the Batavia Town Board hereby authorizes Pervasive Solutions, 117 Victor Heights Parkway, Victor, New York to provide a Network Security Assessment for the Town of Batavia at a cost not to exceed \$1,750.00 (proposal attached).

Second by: Councilman Gerace
APPROVED by unanimous vote (5-0)

Abstract No. 6-2006: Motion Councilman Zambito, second Councilman Gerace to authorize the Supervisor to pay the following vouchers:

General	\$65,338.27
Highway	65,520.33
Sewer No. 1	1,908.05
Sewer No. 2	3,089.75
Water	6,093.98
TOTAL	\$141,950.38

Check numbers 10406 thru 10497

MOTION CARRIED by unanimous vote (5-0)

DEPARTMENT REPORTS:

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Building Inspector requested authorization to purchase a workstation for the Deputy Building Inspector and a bookshelf for the Town Engineer. He received a quote of \$1,326.00 from Office by Design, Inc. for the workstation.

PURCHASE OF WORKSTATION & BOOKSHELF-Motion Councilman Zambito, second Councilman Underhill authorizing the Building Inspector to purchase a workstation and bookshelf at a cost not to exceed \$2,000.00.

MOTION CARRIED by unanimous vote (5-0)

Supervisor's Report:

Status Report on expenditures and revenues is available for the Board's review. The investment sheets will be entered into the minute book. The monies are invested in CD's and are paying a rate of 5.01%.

Assemblyman Steve Hawley will host Town Hall Meetings throughout Genesee County Saturday, June 24, 2006. He will be at the Batavia Town Hall at 11:00 A.M.

Congratulated and thanked the Town Office Staff, Council, Boards and Committees for all the extras they have been doing.

SELL BI-CENTENNIAL JUICE-Motion Supervisor Post, second Councilman Underhill authorizing the Town Clerk's Office to sell the overstock of the 2002 Commemorative Bi-Centennial Grape Juice for 25 cents per bottle.

MOTION CARRIED by unanimous vote (5-0)

COMMITTEE REPORTS:

Time Warner- Councilman Zambito reported that he still has not received any statement or correspondence from Time Warner. He will contact them.

Fire Committee- Councilman Underhill reported that the next fire committee meeting is Tuesday, June 27, 2006 at the Batavia City Centre at 7:00 P.M. Supervisor Post invited the Town Council to attend.

Storm Water Drainage Issues- Councilman Gerace reported that there will be a meeting Monday, June 26, 2006 at 3:00 P.M. at the Batavia Town Hall regarding storm water drainage issues.

Zoning Board of Appeals (ZBA)- Gary Diegelman, ZBA Chairman reported that the ZBA meetings have been changed to the third Monday of each month from the third Tuesday due to the increase in workload and needing the Building Inspector at the meeting.

ADJOURNMENT:

Motion Councilman Gerace, second Councilman Zambito to adjourn the Regular Town Board Meeting at 7:49 P.M.

MOTION CARRIED by unanimous vote (5-0)

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Respectfully submitted,

Teressa M. Morasco
Town Clerk