

DECEMBER 20, 2006
REGULAR TOWN BOARD MEETING

Town Hall

7:00 P.M.

Chad Zambito, Councilman led the pledge to the flag.

Roll Call

Present: Supervisor Post
Deputy Supervisor Underhill
Councilwoman Michalak
Councilman Zambito
Councilman Gerace (arrived at 7:25 P.M.)

Others

Present: Town Clerk Morasco
Building Inspector Worthington
Town Engineer Mountain
Tammy Ennis, Student/ Town Resident

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

MINUTES:

November 15, 2006 Public Hearing-“Proposed Local Law #4 of 2006-A Local Law Providing Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code” and November 15, 2006 Regular Town Board Meeting: Motion Councilman Underhill, second Councilwoman Michalak to approve the minutes as written.

MOTION CARRIED by unanimous vote (4-0)

SPEAKERS: Jerry Arena, Small Business Owner in the Town of Batavia expressed to the Town Board that his family has been entrepreneurs for sixty years and he is disappointed in the Planning Boards approval of COR Development and the placement of the ponds. Mr. Arena quoted some commons from a newspaper article on the public hearing.

Mr. Arena is aware that the Comprehensive Master Plan (CMP) is being updated and has heard rumors that a road is going to be developed through his property. He expressed his respect for this Town Board and hopes that they will include him with issues that relate to his property. The Supervisor informed Mr. Arena that the draft for the updated CMP is not out yet but assured him that he would be invited to address his concerns.

ADJOURNMENT -PUBLIC HEARING: Motion Councilman Underhill, second Zambito to adjourn the Regular Town Board Meeting at 7:15 P.M. to conduct the Public Hearing on the Establishment of the Wilkinson Road Water District.

MOTION CARRIED by unanimous vote (4-0)

RECONVENE: Motion Councilman Underhill, second Councilman Zambito to reconvene at 7:32 P.M.
MOTION CARRIED by unanimous vote (4-0)

RESOLUTION NO. 156:

Councilman Zambito offered the following:

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**RECOGNITION FOR EXEMPLARY CONDUCT
CAROL SHAW**

WHEREAS, the Town of Batavia contracts with the Genesee County Association of Retarded Citizens (GCARC) for janitorial services; and

WHEREAS, the Town has benefited from the dedication and hard work of these individuals; and

WHEREAS, special commendation is due to Carol Shaw, who exhibited exemplary conduct while on duty at the Batavia Town Hall; and

WHEREAS, in November, Carol, found money on the floor of the Town Clerk's office; and

WHEREAS, Ms. Shaw reported this to her immediate Supervisor, Elaine Borthwick.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby is honored to recognize Carol Shaw for her honest and trustworthy conduct.

Second by: Councilwoman Michalak

APPROVED by unanimous vote (5-0)

Supervisor Post presented the Certificate of Recognition to Carol Shaw.

RESOLUTION NO. 157:

Councilman Underhill offered the following:

**AUTHORIZING AGREEMENT FOR
FIRE PROTECTION SERVICES FOR FISCAL YEAR 2007**

WHEREAS, there has been duly established in the Town of Batavia a Fire Protection District known as the "Town of Batavia Fire Protection District" as such territory is more fully described in the Resolution establishing such District as was duly adopted by the Town Board of the Town of Batavia, Genesee County, New York, on March 24, 1948;

WHEREAS, it is proposed that a Contract be entered into with the Town of Batavia Fire Department, Inc. for the furnishing of fire protection in said District by said Town of Batavia Fire Department, Inc.; and

WHEREAS, due notice has been given of a Public Hearing held at the Town Hall of the Town of Batavia, New York on the 20th day of December, 2006, at 6:30 P.M. to consider such Contract, the notice thereof duly specifying the time and place of the Public Hearing as aforesaid and describing the time and place of the Public Hearing as aforesaid and describing in general terms and proposed

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Contract; and

WHEREAS, said Public Hearing was duly conducted as advertised and all persons interested therein and presenting themselves were heard; now, therefore, be it

RESOLVED, it is in the public interest for this Board to contract with the Town of Batavia Fire Department, Inc., and be it further

RESOLVED, upon receiving certified copies of resolutions duly adopted by said Town of Batavia Fire Department, Inc., membership and Directors approving the terms and conditions of said Contract that this Town Board shall contract with said Town of Batavia Fire Department, Inc. for the furnishing of fire protection to such District according to the terms of said Contract, a copy of which is annexed to this Resolution and is make a part thereof, and be it further

RESOLVED, such contract shall be executed on behalf of the Town of Batavia, New York by its Supervisor and Town Clerk.

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

RESOLUTION NO. 158:

Supervisor Post offered the following:

SEQR DETERMINATION OF NON-SIGNIFICANCE

WHEREAS, in accordance with the State Environmental Quality Review Act (SEQRA) Establishment of a Water District is an Unlisted action;

WHEREAS, the Batavia Town Board acting as Lead Agency has reviewed the Short Environmental Assessment Form addressing the Establishment of the Shepard/Putnam Roads Water District (attached) and;

WHEREAS, it has been determined that the Establishment of the Water District will not have an adverse impact on the environment;

NOW, THEREFORE, BE IT

RESOLVED, The Town Board declares that, based on the Environmental Record, which has been prepared, the project will result in no major impacts and, therefore, will not cause significant damage to the environment. A Negative Declaration under SEQR is therefore issued for this project.

Second by: Councilwoman Michalak
APPROVED by unanimous vote (5-0)

RESOLUTION NO. 159:

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Councilwoman Michalak offered the following:

**RESOLUTION AND ORDER FOR ESTABLISHMENT
OF THE PUTNAM AND SHEPARD ROADS WATER DISTRICT
FOR A PORTION OF THE TOWN OF BATAVIA**

WHEREAS, the Town Board of the Town of Batavia, duly adopted a Resolution directing Gregory H. Post, the Town Supervisor of the Town of Batavia to file a map, plan and report as prepared by the Town's engineer for providing the facilities, improvements or services in a portion of the Town of Batavia, wherein a water district was proposed to be established, as hereinafter described, and

WHEREAS, after the said Town Supervisor duly filed said map, plan and report in the office of the Town Clerk of the Town of Batavia on September 18, 2006, and the said Town Board, did on November 15, 2006, duly adopt an Order reciting a description of the boundaries of the proposed district, the maximum amount proposed to be expended for the improvement, the proposed method of financing to be employed, the fact that a plan, map and report describing the same are on file in the Town Clerk's Office for public inspection and specifying that said Town Board shall meet at the Town Hall on the 20th day of December, 2006, for the purpose of conducting a public hearing on such proposal to establish the water district with the specified improvements and to hear all persons interested in the subject thereof concerning the same, and

WHEREAS, a "Petition to Request Water District " was filed in the Batavia Town Clerk's Office on October 31, 2006, which was signed by a number of owners within said district, which was greater than the percentage required by law, and

WHEREAS, the improvements proposed are as follows: a project to provide a safe and reliable potable water supply and fire protection to certain residences in the proposed Putnam and Shepard Roads Water District. The overall project will consist of the construction and installation of approximately 7,500 linear feet of eight inch water main along portions of Putnam, Shepard and Townline Roads creating a "looped" system, thereby eliminating a need to build a pump station; together with all related right-of-way costs, site work and other ancillary work, including hydrants, valves, apparatus, and other improvements and costs incidental thereto (referred to herein as "water improvement"), and

WHEREAS, copies of the aforesaid said Order for a Public Hearing were duly published and posted according to law, and said Town Board did, at the time and place specified in said Order, duly meet and consider such proposal and heard all persons interested in the subject thereof, who appeared at such time and place, concerning the same, and

WHEREAS, the evidence offered at such hearing requires that the Town Board make the determinations hereinafter made;

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Batavia, in the County of Genesee, that it be and hereby is determined as follows:

- (1) The aforesaid "Petition to Request Water District" was signed, and acknowledged or

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proved or authenticated, as required by law and is otherwise sufficient.

(2) The Notice of Hearing was published and posted as required by law and is otherwise sufficient.

(3) That all the property and property owners, within the proposed water district are benefited thereby.

(4) That all of the property and property owners benefited are included within the proposed water district.

(5) It is in the public interest to establish the proposed water district as hereinafter described; and be it

FURTHER RESOLVED, that the Town Board does hereby approve the establishment of a Water District as hereinafter described to be known as the Town of Batavia Putnam and Shepard Roads Water District. Said Water District being described on **EXHIBIT A**, attached hereto and made a part hereof; and be it

FURTHER RESOLVED, that the maximum amount proposed to be expended for such water improvement is \$706,800.00, which is planned to be financed by the issuance of serial bonds in an amount not to exceed \$373,000.00, offset by any funds to be received from the United States of America, and/or the State of New York, and/or the County of Genesee, and/or local grants; including, but not limited to, a USDA Rural Development Agency grant of \$333,800.00, and be it

FURTHER RESOLVED that the proposed debt of \$373,000.00 from a loan from the USDA Rural Development Agency shall be paid over a 38 year term at 4.25% interest, thereby creating an annual debt service (assuming 38 units) of \$525.00 per typical property user in the proposed district, which is a single family home, and be it

FURTHER RESOLVED that a typical household uses 63,000 gallons of water per year and the estimated cost of the water to be purchased by the water district's users is a total of \$3.70 per 1,000 gallons used, thereby the average household can expect to additionally pay approximately \$234.00 per year for water purchase above and beyond the debt service, and be it

FURTHER RESOLVED that based upon the foregoing estimates, the total annual cost of the typical property in the proposed district will be \$759.00 per year, and be it

FURTHER RESOLVED that payment of the debt service will be made by levy and collection of special assessments from the several lots and parcels of lands within the water district, which the Town Board shall determine and specify to be specially benefited thereby, so much upon and from each as shall be in just proportion of 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, and be it

FURTHER RESOLVED that each property will also have to pay for service from their home to the road right-of-way, incurring an estimated one time cost of approximately \$125.00 for a meter, plus approximately \$8.00-\$12.00 per linear feet of pipe, plus potential well abandonment or separation charges, as well as any internal plumbing charges, and be it

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FURTHER RESOLVED that this Resolution and Order is not subject to a permissive referendum; and be it

FURTHER RESOLVED that within ten (10) days after the adoption hereof, the Town Clerk shall post and publish as provided by law a Notice setting forth the date of the adoption of this Resolution and Order and containing an abstract of this Resolution and Order concisely stating the purpose and effect hereof; and be it

FURTHER RESOLVED, that the Town Supervisor, assisted by the Town Attorney and Town Bond Counsel will prepare an application to the Office of the State Comptroller, Department of Audit and Control for approval of the formation of this Water District, and be it

FURTHER RESOLVED, that the Town Clerk be and she hereby is authorized and directed to file within ten (10) days hereof a certified copy of this Resolution and Order in the Office of the Genesee County Clerk, and also in the Office of the State Department of Audit and Control.

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

RESOLUTION NO. 160:

Councilman Gerace offered the following:

SEQR DETERMINATION OF NON-SIGNIFICANCE

WHEREAS, in accordance with the State Environmental Quality Review Act (SEQRA) Establishment of a Water District is an Unlisted action;

WHEREAS, the Batavia Town Board acting as Lead Agency has reviewed the Short Environmental Assessment Form addressing the Establishment of the Wilkinson Road Water District (attached) and;

WHEREAS, it has been determined that the Establishment of the Water District will not have an adverse impact on the environment;

NOW, THEREFORE, BE IT

RESOLVED, The Town Board declares that, based on the Environmental Record, which has been prepared, the project will result in no major impacts and, therefore, will not cause significant damage to the environment. A Negative Declaration under SEQRA is therefore issued for this project.

Second by: Councilwoman Michalak
APPROVED by unanimous vote (5-0)

RESOLUTION NO.161:

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Councilman Zambito offered the following:

**RESOLUTION AND ORDER FOR ESTABLISHMENT
OF THE WILKINSON ROAD WATER DISTRICT
FOR A PORTION OF THE TOWN OF BATAVIA**

WHEREAS, the Town Board of the Town of Batavia, duly adopted a Resolution directing Gregory H. Post, the Town Supervisor of the Town of Batavia to file a map, plan and report as prepared by the Town's engineer for providing the facilities, improvements or services in a portion of the Town of Batavia, wherein a water district was proposed to be established, as hereinafter described, and

WHEREAS, after the said Town Supervisor duly filed said map, plan and report in the office of the Town Clerk of the Town of Batavia on November 8, 2006, and the said Town Board, did on November 15, 2006, duly adopt an Order reciting a description of the boundaries of the proposed district, the maximum amount proposed to be expended for the improvement, the proposed method of financing to be employed, the fact that a plan, map and report describing the same are on file in the Town Clerk's Office for public inspection and specifying that said Town Board shall meet at the Town Hall on the 20th day of December, 2006, for the purpose of conducting a public hearing on such proposal to establish the water district with the specified improvements and to hear all persons interested in the subject thereof concerning the same, and

WHEREAS, a "Petition to Request Water District " was filed in the Batavia Town Clerk's Office on November 13, 2006, which was signed by a number of owners within said district, which was greater than the percentage required by law, and

WHEREAS, the improvements proposed are as follows: a project to provide a safe and reliable potable water supply and fire protection to certain residences in the proposed Wilkinson Road Water District. The overall project will consist of the construction and installation of approximately 5,500 linear feet of eight inch water main along the portion of Wilkinson Road starting at the intersection of Pearl Street Road and Wilkinson Road to connect with an existing water district, and then running south to end at the former Lehigh Valley Railroad right of way; together with all related right-of-way costs, site work and other ancillary work, including hydrants, valves, apparatus, and other improvements and costs incidental thereto (referred to herein as "water improvement"), and

WHEREAS, copies of the aforesaid said Order for a Public Hearing were duly published and posted according to law, and said Town Board did, at the time and place specified in said Order, duly meet and consider such proposal and heard all persons interested in the subject thereof, who appeared at such time and place, concerning the same, and

WHEREAS, the evidence offered at such hearing requires that the Town Board make the determinations hereinafter made;

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Batavia, in the County of Genesee, that it be and hereby is determined as follows:

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- (1) The aforesaid "Petition to Request Water District" was signed, and acknowledged or proved or authenticated, as required by law and is otherwise sufficient.
- (2) The Notice of Hearing was published and posted as required by law and is otherwise sufficient.
- (3) That all the property and property owners, within the proposed water district are benefited thereby.
- (4) That all of the property and property owners benefited are included within the proposed water district.
- (5) It is in the public interest to establish the proposed water district as hereinafter described; and be it

FURTHER RESOLVED, that the Town Board does hereby approve the establishment of a Water District as hereinafter described to be known as the Town of Batavia Wilkinson Road Water District. Said Water District being described on **EXHIBIT A**, attached hereto and made a part hereof; and be it

FURTHER RESOLVED, that the maximum amount proposed to be expended for such water improvement is \$427,300.00, which is planned to be financed by the issuance of serial bonds in an amount not to exceed \$202,000.00, offset by any funds to be received from the United States of America, and/or the State of New York, and/or the County of Genesee, and/or local grants; including, but not limited to, a USDA Rural Development Agency grant of \$225,300.00, and be it

FURTHER RESOLVED that the proposed debt of \$225,300.00 from a loan from the USDA Rural Development Agency shall be paid over a 38 year term at 4.5% interest, thereby creating an annual debt service (assuming 21 units) of \$534.00 per typical property user in the proposed district, which is a single family home, and be it

FURTHER RESOLVED that a typical household uses 63,000 gallons of water per year and the estimated cost of the water to be purchased by the water district's users is a total of \$3.70 per 1,000 gallons used, thereby the average household can expect to additionally pay approximately \$234.00 per year for water purchase above and beyond the debt service, and be it

FURTHER RESOLVED that based upon the foregoing estimates, the total annual cost of the typical property in the proposed district will be \$768.00 per year, and be it

FURTHER RESOLVED that payment of the debt service will be made by levy and collection of special assessments from the several lots and parcels of lands within the water district, which the Town Board shall determine and specify to be specially benefited thereby, so much upon and from each as shall be in just proportion of 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, and be it

FURTHER RESOLVED that each property will also have to pay for service from their home to the road right-of-way, incurring an estimated one time cost of approximately \$125.00 for a meter, plus

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approximately \$8.00-\$12.00 per linear feet of pipe, plus potential well abandonment or separation charges, as well as any internal plumbing charges, and be it

FURTHER RESOLVED that this Resolution and Order is not subject to a permissive referendum; and be it

FURTHER RESOLVED that within ten (10) days after the adoption hereof, the Town Clerk shall post and publish as provided by law a Notice setting forth the date of the adoption of this Resolution and Order and containing an abstract of this Resolution and Order concisely stating the purpose and effect hereof; and be it

FURTHER RESOLVED, that the Town Supervisor, assisted by the Town Attorney and Town Bond Counsel will prepare an application to the Office of the State Comptroller, Department of Audit and Control for approval of the formation of this Water District, and be it

FURTHER RESOLVED, that the Town Clerk be and she hereby is authorized and directed to file within ten (10) days hereof a certified copy of this Resolution and Order in the Office of the Genesee County Clerk, and also in the Office of the State Department of Audit and Control.

Second by: Councilwoman Michalak
APPROVED by unanimous vote (5-0)

RESOLUTION NO. 162:

Councilman Underhill offered the following:

**CONTRACT TO PROVIDE ASSISTANCE TO EMPLOYEES WHO
HAVE ALCOHOL, DRUG, FINANCIAL AND OTHER PERSONAL PROBLEMS**

WHEREAS, at the November 15, 1995 Town Board Meeting the Town Board adopted an Alcohol and Drug Testing Policy;

WHEREAS, the Town wishes to provide assistance to employees who have alcohol, drug, financial and other personal problems;

WHEREAS, Royal Employer Services will provide these services to the Town at a cost of two hundred, seventy dollars (\$270.00) annually (contract attached).

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the contract between the Town of Batavia and Royal Employer Services to provide assistance to employees who have alcohol, drug, financial, and other personal problems.

RESOLVED, this contract runs from January 1, 2007 to December 31, 2007.

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

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RESOLUTION NO. 163:

Supervisor Post offered the following:

CONTRACT TO PROVIDE DRUG AND ALCOHOL TESTING SERVICES

WHEREAS, at the November 15, 1995 Town Board Meeting the Town Board adopted an Alcohol and Drug Testing Policy;

WHEREAS, the Town needs to contract for these testing services;

WHEREAS, WorkFit Medical, LLC, will provide these services, for employees holding safety sensitive positions (costs attached).

RESOLVED, the Batavia Town Board hereby retains WorkFit Medical, LLC for drug and alcohol testing services, for employees holding safety sensitive positions per costs above;

RESOLVED, this service runs from January 1, 2007 to December 31, 2007.

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

RESOLUTION NO. 164:

Councilwoman Michalak offered the following:

**CODE ENFORCEMENT OFFICER AGREEMENT BETWEEN
THE TOWN OF BATAVIA AND THE TOWN OF LEROY**

WHEREAS, the Town of Batavia and the Town of LeRoy employs Code Enforcement Officers to enforce Zoning Code, Fire and Building Codes and other various codes and regulations; and

WHEREAS, each party has identified a need to have its Codes enforced during periods when its Enforcement Officers are unavailable due to illness, vacation and other absences.

NOW, THEREFORE, BE IT

RESOLVED, pursuant to Article 5-G of the General Municipal Law, the Batavia Town Board wishes to enter into an agreement between the Town of Batavia and the Town of LeRoy for Code Enforcement coverage (agreement attached); and be it

FURTHER RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the aforementioned agreement.

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

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RESOLUTION NO. 165:

Councilman Gerace offered the following:

DENTAL FOR NON-BARGAINING EMPLOYEES

RESOLVED, the Batavia Town Board hereby agrees to reimburse the non-bargaining unit employees in the Town, \$250.00 per family member for dental purposes for 2007. The \$250.00 is for each person and is not to be combined with another family members dental expenses.

Second by: Councilman Zambito

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 166:

Councilman Zambito offered the following:

**ORDER FOR PUBLIC HEARING ON ESTABLISHMENT
OF THE PEARL STREET ROAD WATER DISTRICT
FOR A PORTION OF THE TOWN OF BATAVIA**

WHEREAS, the Town Board of the Town of Batavia, New York, has duly adopted a resolution directing the Supervisor of the Town of Batavia to file a map, plan and report for providing the facilities, improvements or services in a portion of the Town of Batavia, where a water district is proposed to be established; and said map, plan and report has been filed in the office of the Town Clerk of the Town of Batavia on November 8, 2006, and

WHEREAS, a "Petition to Request Water District" was filed in the Batavia Town Clerk's Office on December 1, 2006, signed by the required number of property owners within the proposed district, namely, pursuant to the latest completed assessment roll of the Town of Batavia, the owners of taxable real property located in the proposed Pearl Street Road Water District owning in the aggregate at least one-half of the assessed valuation of all of the taxable real property of the proposed Water District; and also constituting the signatures of resident owners who own taxable real property aggregating at least one-half of the assessed valuation of all of the taxable real property of the proposed Water District owned by residents, and

WHEREAS, the boundaries of the proposed Water District are as follows:

See **EXHIBIT A** attached hereto.

WHEREAS, the improvements proposed consists of the construction and installation of approximately 2,700 linear feet of eight inch water main along the portion of Pearl Street Road starting east of the intersection of Pearl Street Road and Hartshorn Road at the northeast corner of land designated by Tax Map Parcel No. 14-1-7, to connect with an existing water district, and then running southeasterly along Pearl Street Road to the Town of Pembroke line; together with all related right-of-way costs, site work and other ancillary work, including hydrants, valves, apparatus, and other improvements and costs incidental thereto (referred to herein as "water improvement"), and

WHEREAS, the maximum amount proposed to be expended for such water improvement is

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\$239,000.00, which is planned to be financed by the issuance of serial bonds in the amount not to exceed \$130,000.00, offset by any funds received from the United States of America, and/or the State of New York, and/or the County of Genesee, and/or local grants; including, but not limited to, a USDA Rural Development Agency grant of \$109,900.00, and

WHEREAS, the proposed debt of \$130,000.00 from a loan from the USDA Rural Development Agency shall be paid over a 38 year term at 4.5% interest, thereby creating an annual debt service (assuming 14 units) of \$515.00 per typical property user in the proposed district, which is a single family home, and

WHEREAS, a typical household uses 63,000 gallons of water per year and the estimated cost of the water to be purchased by the water district's users is a total of \$3.70 per 1,000 gallons used, thereby the average household can expect to additionally pay approximately \$234.00 per year for water purchase above and beyond the debt service, and

WHEREAS, based upon the foregoing estimates, the total annual cost of the typical property in the proposed district will be \$749.00 per year, and

WHEREAS, payment of the debt service will be made by levy and collection of special assessments from the several lots and parcels of lands within the Water District, which the Town Board shall determine and specify to be specially benefited thereby, so much upon and from each as such shall be in just proportion of 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, and

WHEREAS, each property will also have to pay for service from their home to the road right-of-way, incurring an estimated one time cost of approximately \$125.00 for a meter, plus approximately \$8.00-\$12.00 per linear feet of pipe, plus potential well abandonment or separation charges, as well as any internal plumbing charges, and

WHEREAS, the map, plan and report describing such improvements is on file in the office of the Town Clerk of the Town of Batavia and available for public inspection, and it is

ORDERED, that the Town Board of the Town of Batavia, New York, shall meet at the Town Hall, located at 3833 West Main Street Road, Batavia, New York on the 17th day of January, 2007, at 6:50 p.m. for the purpose of conducting a public hearing on the proposal to establish said Water District with the improvements specified herein, at which time and place all persons interested in the subject thereof may be heard concerning the same, and it is further

ORDERED, that the Town Clerk of the Town of Batavia is hereby authorized and directed to publish a copy of this Order in The Daily News, to post a copy of the same on the signboard of the Town of Batavia, and to mail a copy to all owners of property located within the proposed Water District, in the time and manner required by law.

Second by: Councilwoman Michalak

APPROVED by unanimous vote (5-0)

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PUBLIC NOTICE

**THE FOLLOWING ORDER WAS DULY ENACTED ON DECEMBER 20, 2006,
AND ORDERED PUBLISHED BY THE TOWN BOARD OF
THE TOWN OF BATAVIA**

**s/ Teresa M. Morasco
TERESSA M. MORASCO, Town Clerk**

**ORDER FOR PUBLIC HEARING ON ESTABLISHMENT
OF THE PEARL STREET ROAD WATER DISTRICT
FOR A PORTION OF THE TOWN OF BATAVIA**

WHEREAS, the Town Board of the Town of Batavia, New York, has duly adopted a resolution directing the Supervisor of the Town of Batavia to file a map, plan and report for providing the facilities, improvements or services in a portion of the Town of Batavia, where a water district is proposed to be established; and said map, plan and report has been filed in the office of the Town Clerk of the Town of Batavia on November 8, 2006, and

WHEREAS, a “Petition to Request Water District” was filed in the Batavia Town Clerk’s Office on December 1, 2006, signed by the required number of property owners within the proposed district, namely, pursuant to the latest completed assessment roll of the Town of Batavia, the owners of taxable real property located in the proposed Pearl Street Road Water District owning in the aggregate at least one-half of the assessed valuation of all of the taxable real property of the proposed Water District; and also constituting the signatures of resident owners who own taxable real property aggregating at least one-half of the assessed valuation of all of the taxable real property of the proposed Water District owned by residents, and

WHEREAS, the boundaries of the proposed Water District are as follows:
See **EXHIBIT A** attached hereto.

WHEREAS, the improvements proposed consists of the construction and installation of approximately 2,700 linear feet of eight inch water main along the portion of Pearl Street Road starting east of the intersection of Pearl Street Road and Hartshorn Road at the northeast corner of land designated by Tax Map Parcel No. 14-1-7, to connect with an existing water district, and then running southeasterly along Pearl Street Road to the Town of Pembroke line; together with all related right-of-way costs, site work and other ancillary work, including hydrants, valves, apparatus, and other improvements and costs incidental thereto (referred to herein as “water improvement”), and

WHEREAS, the maximum amount proposed to be expended for such water improvement is \$239,000.00, which is planned to be financed by the issuance of serial bonds in the amount not to

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exceed \$130,000.00, offset by any funds received from the United States of America, and/or the State of New York, and/or the County of Genesee, and/or local grants; including, but not limited to, a USDA Rural Development Agency grant of \$109,900.00, and

WHEREAS, the proposed debt of \$130,000.00 from a loan from the USDA Rural Development Agency shall be paid over a 38 year term at 4.5% interest, thereby creating an annual debt service (assuming 14 units) of \$515.00 per typical property user in the proposed district, which is a single family home, and

WHEREAS, a typical household uses 63,000 gallons of water per year and the estimated cost of the water to be purchased by the water district's users is a total of \$3.70 per 1,000 gallons used, thereby the average household can expect to additionally pay approximately \$234.00 per year for water purchase above and beyond the debt service, and

WHEREAS, based upon the foregoing estimates, the total annual cost of the typical property in the proposed district will be \$749.00 per year, and

WHEREAS, payment of the debt service will be made by levy and collection of special assessments from the several lots and parcels of lands within the Water District, which the Town Board shall determine and specify to be specially benefited thereby, so much upon and from each as such shall be in just proportion of 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, and

WHEREAS, each property will also have to pay for service from their home to the road right-of-way, incurring an estimated one time cost of approximately \$125.00 for a meter, plus approximately \$8.00-\$12.00 per linear feet of pipe, plus potential well abandonment or separation charges, as well as any internal plumbing charges, and

WHEREAS, the map, plan and report describing such improvements is on file in the office of the Town Clerk of the Town of Batavia and available for public inspection, and it is

ORDERED, that the Town Board of the Town of Batavia, New York, shall meet at the Town Hall, located at 3833 West Main Street Road, Batavia, New York on the 17th day of January, 2007, at 6:50 p.m. for the purpose of conducting a public hearing on the proposal to establish said Water District with the improvements specified herein, at which time and place all persons interested in the subject thereof may be heard concerning the same, and it is further

ORDERED, that the Town Clerk of the Town of Batavia is hereby authorized and directed to publish a copy of this Order in **The Daily News**, to post a copy of the same on the signboard of the Town of Batavia, and to mail a copy to all owners of property located within the proposed Water District, in the time and manner required by law.

DATED: December 20, 2006

**DECEMBER 20, 2006
REGULAR TOWN BOARD MEETING**

RESOLUTION NO. 167:

Councilman Underhill offered the following:

**PURCHASE OF TOSHIBA
STUDIO 351C DIGITAL COLOR COPIER/ PRINTER/SCANNER**

RESOLVED, the Batavia Town Board hereby authorizes the purchase, in January 2007, of a Toshiba Studio 351C Digital Color Copier, Printer, and Scanner with Advanced Scanning and the Saddle Stitch Finisher from Toshiba Business Solution at a cost of \$12, 520.00, New York State Contract number PC59471 (proposal attached) for the Town Hall Office; and be it

FURTHER RESOLVED, the Town Board also authorizes the purchase of the annual maintenance agreement at a cost of \$72.00 per month, based on 8,000 images per month, excluding color copies, with overages being billed at \$.009 and color copies being billed at \$.08 per copy; and be it

FURTHER RESOLVED, the Lanier 5635 Copier be transferred to the Batavia Town Court office.

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

RESOLUTION NO. 168:

Supervisor Post offered the following:

**APPROVAL OF CHANGE ORDER
LEWISTON ROAD STORM AND SANITARY SEWER IMPROVEMENTS**

WHEREAS, PRO CONSTRUCTION is under contract with the Town of Batavia for the Lewiston Road Storm and Sanitary Sewer Improvements,

WHEREAS, PRO CONSTRUCTION has submitted a change order request for an extension of time (attached),

WHEREAS, FRA ENGINEERING, P.C. has recommended approval of the change order request.

NOW, THEREFORE, BE IT

RESOLVED, the Town of Batavia hereby authorizes the Supervisor to execute the attached Change Order.

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

RESOLUTION NO. 169:

**DECEMBER 20, 2006
REGULAR TOWN BOARD MEETING**

Councilwoman Michalak offered the following:

AUTHORIZING BUDGET TRANSFERS FOR 2006

RESOLVED, the Batavia Town Board hereby authorizes the following Budget Transfers:

General Fund:

<u>From</u>	<u>Amount</u>	<u>To</u>
A1010.402 Town Board- Contractual	\$683.00	A1010.402 Town Board – Pers Svc
A1110.201 Justice – Equipment	\$47.00	A1110.106 Justice - Security
A1110.200 Justice – Equipment	\$425.00	A1110.105 Justice - Security
A1010.404 Town Board – Contractual	\$96.00	A1220.401 Supervisor – Contractual
A1220.200 Supervisor – Equipment	\$124.00	A1220.400 Supervisor – Contractual
A1310.100 Town Mngr – Pers Svc	\$268.41	A1320.400 Auditor - Contractual
A1420.404 Attorney – Assessment	\$7168.75	A1420.403 Attorney-Union
A1420.400 Attorney – Contractual	\$1.78	A1420.403 Attorney – Union
A1440.400 Engineer – Contractual	\$1312.58	A1440.401 Engineer - Contractual
A1680.401 Central Data Proc – Maint	\$323.14	A1680.402 Central Data Proc - Web
A1620.402 Bldg - Other Exp	\$971.99	A1989.400 Misc Exp
A1990.400 Contingency	\$8500.00	A3620.101 Bldg & Safety Inspec. P/T
A3620.200 Bldg & Safety Inspec. Equip.	\$1275.64	A3620.400 Bldg & Safety Inspec. Contr
A5132.400 Garage – Utilities	\$354.80	A5132.402 Garage – Other Operating Exp
A7110.200 Parks – Equipment	\$290.53	A7110.400 Parks- Contractual
A5132.400 Garage – Utilities	\$121.52	A7110.400 Parks- Contractual
A9050.800 Unemployment Ins	\$1898.16	A9010.800 Retirement
A9050.800 Unemployment Ins	\$101.84	A9089.800 In Lieu of Health Ins
A9089.801 Eye Exam & Lenses	\$473.56	A9089.800 In Lieu of Health Ins
A3645.400 Homeland Sec – Contractual	\$6895.93	A8030.400 Research&Dev - Contr
A3645.400 Homeland Sec – Contractual	\$903.00	A8020.101 Planning Board – Pers Svc
A3645.400 Homeland Sec – Contractual	\$79.74	A8020.400 Planning Board - Supplies
A3645.400 Homeland Sec – Contractual	\$570.56	A8020.401 Planning Board – Legal Fees
A3645.400 Homeland Sec – Contractual	\$1135.50	A8020.404 Planning Board – Code Update
A3645.400 Homeland Sec – Contractual	\$8285.27	A8020.402 Planning Board - Engineers
A8020.403 Planning Board – Ordinances	\$1000.00	A8020.402 Planning Board - Engineers
A8020.405 Planning Board - CMP	\$13606.53	A8020.402 Planning Board - Engineers

Highway Fund:

DA5142.100 Snow Removal – Pers Svc	\$1995.00	DA5140.100 Brush & Weeds – Pers Svc
DA9050.800 Unemployment Ins.	\$1066.45	DA9010.800 State Retirement
DA5142.100 Snow Removal – Pers Svc	\$12337.88	DA5110.400 General Repairs - Contractual

Sewer No. 1:

SS18120.400 Sanitary Swr- Contractual	\$120.00	SS18110.401 Swr Admin – Backflow
SS18120.400 Sanitary Swr- Contractual	\$5.00	SS18120.105 Sanitary Swr – Longevity

**DECEMBER 20, 2006
REGULAR TOWN BOARD MEETING**

SS18120.400 Sanitary Swr- Contractual \$265.34 SS19010.800 State Retirement

Sewer No. 2:

SS28110.400 Sanitary Swr – Contractual	\$180.00	SS28110.401 Swr Admin – Backflow
SS28110.400 Sanitary Swr – Contractual	\$7.00	SS29010.800 Sanitary Swr - Longevity
SS28110.400 Sanitary Swr – Contractual	\$399.01	SS29010.800 State Retirement

Water:

SW8340.400 Trans/Dist – Contractual	\$3488.93	SW8310.401 Wtr Admin – Backflow
SW8340.400 Trans/Dist – Contractual	\$28.00	SW8340.105 Trans/Dist - Longevity
SW8340.400 Trans/Dist – Contractual	\$144.04	SW9010.800 State Retirement

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

RESOLUTION NO. 170:

Councilman Gerace offered the following:

PURCHASE OF SECURITY/NETWORKING DEVICES AND SERVICES

WHEREAS, Pervasive Solutions provided a Network Security Assessment for the Town of Batavia; and

WHEREAS, upon completion of the Security Assessment, a Findings and Recommendation Security Audit was submitted to the Town of Batavia by Pervasive Solutions, along with a quotation of equipment and service.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby accepts Pervasive Solutions quotation for equipment and services, as of January 1, 2007 for a one time non-recurring cost of \$5,989.00 and yearly recurring cost for Secure Hosted Exchange and Securinet at a cost of \$2,918.80 (quote attached); and be it

FURTHER RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute any documents related to this service effective January 2007.

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

RESOLUTION NO. 171:

Councilman Zambito offered the following:

**TRANSPORTING LIQUID LANDFILL LEACHATE
FROM THE TOWN'S SANITARY LANDFILL SITE**

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REGULAR TOWN BOARD MEETING

RESOLVED, the Batavia Town Board hereby wishes to continue the contract with A.D. Call & Sons, Stafford, New York for transporting liquid leachate from the Town of Batavia Landfill to Niagara Falls at the same pricing as last year, which is \$.0615 per gallon; and be it

FURTHER RESOLVED, should the designated disposal facility be changed during the one year continuation period to the City of Batavia, the cost for transporting the liquid leachate will be reduced to a cost of \$.036 per gallon (proposal letter attached).

Second by: Councilman Gerace

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 172:

Councilman Underhill offered the following:

JANITORIAL SERVICES

RESOLVED, the Batavia Town Board hereby retains New York State Industries for the Disabled, Inc., who represents Genesee County ARC, to perform janitorial services at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, from January 1, 2007 to December 31, 2007 at a monthly cost of one thousand, one hundred, seventy-three dollars and forty-eight cents (\$1,173.48).

RESOLVED, that Genesee County ARC provides the Town of Batavia a Certificate of Insurance naming the Town as additional insured. Copy of Insurance Certificate attached stipulating the limits.

FURTHER RESOLVED, the specifications for the cleaning of the Town Hall is attached.

Second by: Councilman Zambito

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 173:

Supervisor Post offered the following:

APPOINTMENT TO PLANNING BOARD

WHEREAS, Kathleen Jasinski, 2982 West Main Street Road, Batavia, New York, term on the Town of Batavia Planning Board expires on December 31, 2006,

RESOLVED, the Batavia Town Board hereby re-appoints Kathleen Jasinski, to the Town of Batavia Planning Board as Chairperson commencing January 1, 2007 and expiring December 31, 2013.

Second by: Councilman Underhill

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 174:

**DECEMBER 20, 2006
REGULAR TOWN BOARD MEETING**

Councilwoman Michalak offered the following:

APPOINTMENT TO ZONING BOARD OF APPEALS

WHEREAS, Andrew J. Young, 3589 Pike Road, Batavia, New York, term on the Town of Batavia Zoning Board of Appeals expires on December 31, 2006,

RESOLVED, the Batavia Town Board hereby re-appoints Andrew Young, to the Zoning Board of Appeals for a term to commence January 1, 2007 and extending through to the date of December 31, 2011.

Second by: Councilman Zambito

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 175:

Amendment: Motion Councilman Underhill, second Councilman Zambito the alternate member appointment is to the Zoning Board of Appeals rather than the Planning Board.

MOTION CARRIED by unanimous vote (5-0)

Councilman Gerace offered the following as amended:

APPOINTMENT OF ALTERNATE ZONING BOARD OF APPEALS MEMBER

WHEREAS, John Della Penna, 8910 Lehigh Road, Batavia, New York, term on the Town of Batavia Zoning Board of Appeals as an alternate zoning board member expires on December 31, 2006.

RESOLVED, the Batavia Town Board hereby re-appoints John Della Penna to the Town of Batavia Zoning Board of Appeals as an alternate member commencing January 1, 2007 and expiring December 31, 2008.

Second by: Councilwoman Michalak

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 176:

Councilman Zambito offered the following:

**APPROVAL OF CHANGE ORDER 2006-02
OPERATION & MAINTENANCE- TOWN OF BATAVIA
LANDFILL SUPERFUND SITE**

WHEREAS, Blasland, Bouck and Lee, Incorporated (BBL, Inc.) is under contract with the Town of Batavia and the City of Batavia to provide Engineering Services at the Town of Batavia Landfill Superfund Site; and

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WHEREAS, by agreement the Town of Batavia and City of Batavia are requested to fund the Operation and Maintenance activities at the Site; and

WHEREAS, BBL, Inc. has submitted a letter detailing the scope of work and cost estimate for providing Operation and Maintenance Engineering Services at the Site for 2007 (attached); and

WHEREAS, the cost for the service is estimated at forty-four thousand, three hundred, thirty-five dollars (\$44,335.00), seventy-five percent (75%) to be incurred by the City of Batavia and twenty-five percent (25%) to the Town.

RESOLVED, the Town of Batavia hereby authorizes the Supervisor to execute the attached Change Order Approval Form for the aforementioned Engineering Services to be performed by BBL, Inc., at the Town of Batavia Landfill Superfund Site.

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

Abstract No. 12-2006: Motion Councilman Zambito second Councilman Gerace, to authorize the Supervisor to pay the following vouchers:

General	\$154,638.22
Highway	10,037.02
Sewer No. 1	4,750.76
Sewer No. 2	4,177.36
Water	12,826.70
Lovers Lane Water (HJ)	244,230.30
TOTAL	\$430,660.36

Check numbers 10892 thru 10904

MOTION CARRIED by unanimous vote (5-0)

DEPARTMENT REPORTS:

Planning Board Chairwoman reported that the Planning Board just finished with a busy year.

Building Inspector reported on the following:

Thank You-He had a good year and thanked the Town Board for their support.

Town Logo- Distributed information from Cashmere Creative, to the Town Board, on the cost to design a Town Logo and asked authorization to proceed with a Town Logo. The Town Board would like to review the information.

Street Lighting- Councilman Zambito asked about the street lighting on Clinton Street Road by the Daycare Center. The Building Inspector stated that Headstart has indicated that there is a black spot. Tammy Ennis, a student who was in attendance at the meeting expressed that the lighting on Clinton Street Road is very dim. The Town Board briefly discussed and the Supervisor would like the Building Inspector to bring this issue up at a staff meeting.

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Clinton Crossing- Councilwoman Michalak asked about occupancy at Clinton Crossing. The Building Inspector informed the Board that one building is ready for occupancy.

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 at rate of 5.28 and 5.20% respectively.

GAM meeting is Thursday December 21 at the Alabama Hotel at 7:00 P.M..

Organizational Meeting-Scheduled for Wednesday, January 3 at 7:00 P.M.

Thank you Letter- Received a thank you letter from the Genesee County Legislature for extraordinary efforts and fine work done for our citizens during the October Storm. It was a collaborative effort between municipalities.

Swearing In Ceremony-The Genesee County Swearing In Ceremony will be held at the Batavia Town Hall on Thursday, December 28 at 5:30 P.M.

Thanked Employees - Thanked all the Town of Batavia Boards and all Employees for all their hard work and enthusiasm they expressed this past year. He also thanked the residents for their support.

COMMUNICATIONS:

The Town Clerk reported on the following:

Kelsey Road Speed Limit- Received a letter from the NYSDOT on the request to lower the speed limit on a portion of Kelsey Road –they have determined that it is not warranted at this time

2007 Town/County Taxes Bill will be mailed on December 29th or 30th.

Town Hall Closings- The Town Hall Office will be closing at 12:00 P.M. on Friday, December 22 and December 29 and will be closed December 25.

Merry Christmas, Happy Holidays and Happy New Year to All!!

COMMITTEE REPORTS:

Time Warner- Councilwoman Michalak reported that the recent meeting to discuss Time Warner Franchise was well attended by other Townships. The Time Warner Franchise is going to be further discussed at the January GAM meeting.

Sex Offender Ordinance- Councilwoman Michalak distributed, to the Town Board, a draft copy she has been working on of a sex offender ordinance. The Town Board will have a Work Session/Caucus on January 3 prior to the Organizational Meeting to discuss this.

OLD BUSINESS:

Parking/Traffic Problems- Councilman Gerace informed the Town Board that Greg Kuras, Small Town Auto contacted him and the situation is getting worst with the parking/traffic problems with the neighboring property. Mr. Kuras would like more direction from the Town. The Building Inspector has been in contact with the Sheriffs Department. The Sheriff's would act on problem, if there is a violation of the law. They recommended the owner install no parking signs on his property.

NEW BUSINESS:

DECEMBER 20, 2006
REGULAR TOWN BOARD MEETING

Thanked Supervisor- Deputy Supervisor Underhill thanked Supervisor Post for the great job he did this past year.

CELL PHONE REIMBURSEMENT- Motion Councilman Underhill, second Councilman Gerace to reimburse the Town Supervisor \$75.00 per month for usage of his personal cell phone for Town Business, retroactive from January 2006 and authorize payment in abstract 12.

Ayes: Councilman Underhill, Councilman Gerace, Councilman Zambito, Councilwoman Michalak

Abstain: Supervisor Post

MOTION CARRIED (4-ayes, 1-abstain)

ADJOURNMENT:

Motion Councilman Gerace, second Councilman Zambito to adjourn the Regular Town Board Meeting at 8:35 P.M.

MOTION CARRIED by unanimous vote (5-0)

Respectfully submitted,

Teressa M. Morasco
Town Clerk