

JULY 19, 2006
REGULAR TOWN BOARD MEETING

Town Hall

7:00 P.M.

Daniel Underhill, Councilman 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
Highway Superintendent Cook

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

MINUTES:

June 21, 2006 Regular Town Board Meeting: Motion Councilman Underhill, second Councilman Gerace to approve the minutes as written.

MOTION CARRIED by unanimous vote (4-0)

SPEAKERS:

Carl Bish, Pastor of Calvary Baptist Church addressed the Town Board regarding the petition they filed in the Town Clerk's office to reduce the speed limit on Galloway/Kelsey Roads. He started the church in 1973, since then, there is an increased amount of traffic. Galloway Road is used as a short cut to get to route 63. Pastor Bish is concerned with the safety of the children walking to and from the Christian School and requested the Town Board support a resolution to lower the speed limit.

Joanne Bish, informed the Town Board that she carried the petitions to lower the speed limit on Galloway/Kelsey Roads and was pleased with the support from the community. She expressed that there is a real need for a change in the speed limit on Galloway/Kelsey Road and thanked the Town Board for their consideration.

RESOLUTION NO. 109:

Councilman Underhill offered the following:

RESOLUTION ADOPTING LOCAL LAW #2 OF 2006

WHEREAS, proposed Local Law #2 of 2006 of the Town of Batavia entitled "A Local Law Authorizing a Grant to the Genesee County Industrial Development Agency Regarding Gateway II Corporate Park", which proposed Local Law in its final form was presented to the Town Board at the meeting held on June 21, 2006, and a copy thereof was kept with the Town Clerk and copies both laid upon the desks of the members of said Town Board Members and mailed to each member of the Town Board Members not in attendance at said meeting; and

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WHEREAS, a public hearing on the advisability of enacting said proposed Local Law was held on July 19, 2006, before this Town Board, pursuant to public notice duly published in The Daily News according to law, at which time all interested persons were heard; and

WHEREAS, the Town Board of the Town of Batavia, New York is of the opinion that adoption of said proposed Local Law #2 of 2006 is in the best interest of the Town of Batavia, New York,

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Batavia, New York that said proposed Local Law #2 of 2006 be and the same hereby is adopted; and

BE IT FURTHER RESOLVED, that a certified copy of said Local Law #2 of 2006 be filed with the New York State Secretary of State in accordance with Law.

Dated: Batavia, New York
July 19, 2006

Second by: Councilman Gerace
APPROVED by unanimous vote (4-0)

RESOLUTION NO. 110:

Supervisor Post offered the following:

ESTABLISHING LINE ITEM FOR INDUSTRIAL DEVELOPMENT AGENCY

WHEREAS, Local Law #2 of 2006 was adopted by the Batavia Town Board authorizing a grant of \$225,000.00 to the Genesee County Industrial Development Agency, d/b/a Genesee County Economic Development Center (GCEDC) to allow 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; and

WHEREAS, a line item needs to be established for this aforementioned expense.

RESOLVED, the Batavia Town Board hereby establishes line item A6460.410-Industrial Development Agency in the amount of \$225,000.00; and be it

FURTHER RESOLVED, to fund this expense, \$225,000.00 will be transferred from the Unappropriated-Unexpended Fund Balance.

Second by: Councilwoman Michalak
APPROVED by unanimous vote (4-0)

RESOLUTION NO. 111:

Councilwoman Michalak offered the following:

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**CROSS CONNECTION CONTROL PROGRAM MANAGEMENT AGREEMENT
BETWEEN
BACKFLOW PREVENTION CONSULTANTS AND THE TOWN OF BATAVIA**

WHEREAS, the Town of Batavia, as a water purveyor, wishes to pursue New York State Department of Health (NYSDOH) local approval authority for all Containment Backflow Prevention Device Installation Projects; and

WHEREAS, Warren D. Miller of Backflow Prevention Consultants, as Chief Engineer of the Elma Water Department currently has this delegated approval authority from the NYSDOH for all such projects within the Town of Elma, and is able to provide the development and management of a Cross Connection Control Program for the Town of Batavia, on an as needed basis; and

WHEREAS, Warren D. Miller will make application to the NYSDOH for local approval authority for all Containment Device applications in the Town of Batavia, after the formation of various local program controls, procedures, and design standards, of which the completion shall be expedited, and to provide additional services on an as needed basis; and

WHEREAS, compensation for these services will be at an hourly rate of \$75.00 per hour, plus approved reimbursable expenses.

NOW, THEREFORE BE IT

RESOLVED, subject to the approval of the Town Attorney, that the Batavia Town Board hereby authorizes the Supervisor to execute an agreement between Backflow Prevention Consultants and the Town of Batavia for purposes of the development and management of a Cross Connection Control Program working as directed by the Town Engineer.

Second by: Councilman Gerace

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 112:

Councilman Gerace offered the following:

**CONCURRING WITH DEPARTMENT OF TRANSPORTATION CONDITIONS
FOR THE PHASED DEVELOPMENT OF THE PROPERTY**

WHEREAS, it is the New York State Department of Transportation's general policy that traffic impacts resulting from a new development shall be mitigated, based on full build out on opening day, so that the level of service is maintained on all New York State highways as they would have operated absent the new development, and

WHEREAS, the Genesee Gateway Local Development Corporation (GGLDC) proposes phased development of their property totaling 57 acres, located on the East side of New York State Route 98 between the NYS Thruway and West Saile Drive in the Town of Batavia, with an initial development parcel of 7.88 acres, as shown on a subdivision plot filed with the Town of Batavia, and

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WHEREAS, the New York State Department of Transportation will only allow these initial developments by GGLDC as indicated on the concept plan and referred to as Phase 1 on Attachment A, based on the following conditions:

- A. That the Town of Batavia agrees not to allow any additional subdivisions of properties (except a 50' x 50' subdivision for Town of Batavia sanitary sewer pump station) or issue any additional building permits beyond Phase 1 as defined on Attachment A on the aforementioned property, until the New York State Department of Transportation receives and approves a traffic impact study conducted by the developer or the successors, that defines the mitigation necessary to maintain the level of service on the New York State highway system, and
- B. That the Town of Batavia agrees not to issue any additional Certificates of Occupancy on the aforementioned property, until all highway mitigation is completed to the satisfaction of the New York State Department of Transportation, and

WHEREAS, GGLDC requests the cooperation and assistance from the Town of Batavia to fulfill the New York State Department of Transportation's required conditions.

NOW, THEREFORE, BE IT RESOLVED:

- 1. That the Town of Batavia authorizes and agrees with the above stated New York State Department of Transportation's conditions with regard to the proposed phased development by GGLDC, and
- 2. That this resolution shall take effect immediately, and
- 3. That the Clerk of the Town Board of Batavia is hereby directed to transmit five (5) certified copies of the foregoing resolution to the New York State Department of Transportation.

Second by: Councilman Underhill
APPROVED by unanimous vote (4-0)

RESOLUTION NO. 113:

Councilman Underhill offered the following:

**RESOLUTION TO RESCIND THE RESOLUTIONS CREATING
THE PUTNAM AND SHEPARD ROADS
WATER DISTRICT IN THE TOWN OF BATAVIA, NEW YORK
AND TO SCHEDULE A SPECIAL ELECTION
FOR A REFERENDUM**

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

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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, and

WHEREAS, on June 21, 2006, the Town Board passed a “Resolution to Schedule a Special Election for a Referendum Upon the Putnam and Shepard Roads Water District in the Town of Batavia, New York”, and

WHEREAS, it appears to the Town Board from the fact that a referendum Petition was filed; as well as from comments and input received from the citizens located within the proposed District and from the Town Engineer, that there are questions and concerns regarding the Putnam and Shepard Roads Water District as presently proposed, and

WHEREAS, the Town Board believes that it would be in the best interests of the citizens of this District to cancel the proposed referendum in order to give the Town Engineer and Town Board an opportunity to revise the proposed District and the Map, Plan and Report that was filed in the Batavia Town Clerk’s Office on April 5, 2006, with the purpose of addressing, answering and responding to as many of the questions and concerns as is possible, and

WHEREAS, Section 93 of the Town Law authorizes the Batavia Town Board to rescind or repeal at any time any action or resolution regarding the proposed Water District, and upon such rescission, no further proceedings will move forward concerning the current proposal and no referendum shall be held.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Batavia, New York, that the aforesaid “Resolution Creating Town of Batavia Putnam and Shepard Roads Water District in the Town of Batavia, Subject to Permissive Referendum and Approval of the State Comptroller”, adopted on May 17, 2006, is hereby rescinded, and

BE IT FURTHER RESOLVED, that the “Resolution to Schedule a Special Election for a Referendum Upon the Putnam and Shepard Roads Water District in the Town of Batavia, New York”, passed on June 21, 2006, is hereby rescinded, and

BE IT FURTHER RESOLVED, that no further action shall be undertaken with regard to the Putnam and Shepard Roads Water District as currently proposed in a Map, Plan and Report filed on April 5, 2006, and

BE IT FURTHER RESOLVED, that the Special Election for a referendum scheduled for August 15, 2006, shall not be held, and

BE IT FURTHER RESOLVED, that the Town Supervisor and the Town Engineer are authorized and directed to request and obtain a revised Map, Plan and Report, and to schedule and

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conduct such informational and/or public hearings as may be needed to obtain public input and clarify issues before a revised Water District is created.

Second by: Councilwoman Michalak
APPROVED by unanimous vote (4-0)

RESOLUTION NO. 114:

Supervisor Post offered the following:

**APPROVAL OF GRANT AGREEMENT BETWEEN THE TOWN OF BATAVIA AND
GENESEE GATEWAY LOCAL DEVELOPMENT CORPORATION**

WHEREAS, the Batavia Town Board did authorize the Genesee Gateway Local Development Corporation (GGLDC) to submit an application for a Small Cities Grant to the Governor's Office for Small Cities for funding to provide an equipment & working capital loan to Wellsville Carpet Town, Inc. in support of its expansion into the Town of Batavia, and

WHEREAS, the Governor's Office for Small Cities has advised the Batavia Town Board that a grant in the amount of \$586,000 is being offered to the Town of Batavia to provide a loan to Wellsville Carpet Town, Inc. to support the equipping of its new facility in Gateway II Corporate Park in the Town of Batavia, and

WHEREAS, the Genesee Gateway Local Development Corporation is a nonprofit local development corporation eligible to receive grants of CDBG funds pursuant to Section 105(a)(15) of the Housing and Community Development Act of 1974, as amended (42 USC 5305).

NOW, THEREFORE, BE IT

RESOLVED, that the Batavia Town Board approves the Grant Agreement with the Genesee Gateway Local Development Corporation (GGLDC) thereby allowing the GGLDC to administer the Small Cities Grant on behalf of the Town of Batavia, contingent upon the approval from the Attorney for the Town.

Second by: Councilwoman Michalak
APPROVED by unanimous vote (4-0)

RESOLUTION NO. 115:

Councilwoman Michalak offered the following:

**COMPREHENSIVE MASTER PLAN SERVICES AGREEMENT –
BETWEEN THE TOWN OF BATAVIA AND STUART I. BROWN ASSOCIATES**

WHEREAS, the Supervisor wishes to retain Stuart I. Brown Associates to assist the Town of Batavia in preparing an update to the Town's existing Comprehensive Master Plan at a cost of thirty one thousand one hundred and ten dollars (\$31,110.00) (proposal attached).

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NOW, THEREFORE, BE IT RESOLVED, the Batavia Town Board authorizes the Supervisor to retain Stuart I. Brown Associates for the preparation of the Comprehensive Master Plan Update at a cost not to exceed thirty one thousand one hundred and ten dollars (\$31,110.00) and to execute an agreement between the Town of Batavia and Stuart I. Brown Associates.

Second by: Councilman Gerace
APPROVED by unanimous vote (4-0)

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

MOTION CARRIED by unanimous vote (4-0)

RESOLUTION NO. 116:

Councilman Gerace offered the following:

RESOLUTION FOR REDUCTION OF SPEED LIMIT
GALLOWAY AND KELSEY ROADS

WHEREAS, residents residing on Galloway and Kelsey Roads have expressed concern regarding unsafe traffic conditions on Galloway and Kelsey Roads; and

WHEREAS, a request has been made to reduce the speed limit from 55 MPH to 45 MPH (petition attached) on Galloway and Kelsey Roads, as well as the posting of "speed limit" signs within the school zone area, which is located approximately one quarter of a mile east and west of Kelsey Road and

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby petitions the Genesee County Highway Department and the New York State Department of Transportation by way of this resolution to consider a speed reduction from 55 MPH to 45 MPH on Galloway and Kelsey Roads, as well as the posting of "speed limit" signs within the school zone area.

Second by: Councilwoman Michalak
APPROVED by unanimous vote (4-0)

Abstract No. 7-2006: Motion Councilman Gerace, second Councilman Underhill to authorize the Supervisor to pay the following vouchers:

General	\$69,259.52
Highway	46,348.04
Sewer No. 1	1,282.76
Sewer No. 2	1,220.88
Water	3,505.37
TOTAL	\$121,616.57

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Check numbers 10498 thru 10572

MOTION CARRIED by unanimous vote (4-0)

DEPARTMENT REPORTS:

Highway Superintendent/Water/Wastewater Supervisor reported on the following:

Stegman Road Guardrails-He would like authorization to purchase 800' of used guardrail to install on Stegman Road. The estimated cost is \$11,000.00. The Supervisor suggested addressing this at budget time. This has been an issue for a couple of years.

Meter Readings have been completed.

Byron Road Pump Station- There is a problem with the meter at the Byron Road Pump Station and it has been sent in for repairs.

Supervisor's Report:

Rose Road –Petition- Received a petition from residents on Rose Road for a water district extension.

Woodhill Mobile Home Park Residents requested information on housing assistance because the Park is in the process of being sold to a developer and they need to have their mobile homes, etc removed from the property by June 2007. There is a copy of the Genesee County Housing Assistance & Information Directory and information on Birchwood Village for review in the Town Clerk's Office or it can be accessed via their websites: www.co.genesee.ny.us/dpt/planning and www.birchwoodvillageapartments.com .

School and Municipal Energy Cooperative (SMEC)- Would like the Town Clerk to obtain the paperwork for the Town to become a member of SMEC, a cooperative for obtaining lower costs on gas and electric.

Train Complaint- Would like Clinton Worthington, Building Inspector to follow up with the email complaint received from Mr. Greg Caryk of Rose Road regarding the all night idling of the trains.

Small Cities Conference-NYS Governor's Office for Small Cities is offering select communities scholarships to cover travel expenses to attend the Annual Small Cities Conference October 3 through October 5 in Ithaca and he would like Hiedi Libroek, Secretary to the Supervisor to complete and submit the paperwork for the scholarship.

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 5.19%.

Hazard Mitigation Plan meeting is Tuesday, August 1, 2006 at 7:00 P.M. at the Genesee County Emergency Management Services Building. Mr. Post would appreciate if the Town Board attended as well as the Rod Cook, Highway Superintendent and Steve Mountain, Town Engineer.

Genesee Region Housing Initiatives Committee-Appointment- Appointed Patti Michalak, Councilwoman to represent the Town of Batavia for the Genesee Region Housing Initiatives Committee.

LICENSE LAMINATORS- Motion Councilman Gerace, second Councilman Underhill authorizing the Town Clerk to purchase 1000 Fishing/Hunting License Self Laminators at a cost of \$350.00 and sell the Laminators for \$1.00 each. The cost will be shared with other Genesee County Townships that are

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interested in selling them in their office

MOTION CARRIED by unanimous vote (4-0)

INANCE CONFERENCE- Motion Supervisor Post, second Councilman Gerace authorizing the Water/Wastewater Clerk to attend the Inhance Small Business Conference in Tyler, Texas on September 14 & 15.

MOTION CARRIED by unanimous vote (4-0)

COMMITTEE REPORTS:

Communication Committee (Broadband-Wireless)-Councilman Gerace reported that they will be meeting again on July 27, 2006 and are looking into different options.

Coordinated Assessment Proposal (CAP)- Councilman Gerace reported that the committee is at a road block on the Shared Assessment Services.

Fire Department Committee- Councilman Underhill reported that last evening there was a fire committee meeting and a representative from ISCO was a speaker. The next meeting is August 3, 2006 at the City Centre at 7:00 P.M.

NEW BUSINESS:

JUNKYARD LICENSES- Motion Councilman Underhill, second Councilman Gerace to approve the junkyard licenses for Harry Barsuk & Joseph Barsuk, Inc., 3604 Pearl St. Rd., Bushville Auto Parts, West Main St. Rd. and the Herbert Diegelman Estate, West Main Street Road contingent upon the Building Inspectors approval.

MOTION CARRIED by unanimous vote (4-0)

ADJOURNMENT:

Motion Councilman Underhill, second Councilman Gerace to adjourn the Regular Town Board Meeting at 8:00 P.M.

MOTION CARRIED by unanimous vote (4-0)

Respectfully submitted,

Teresa M. Morasco
Town Clerk