

**FEBRUARY 20, 2008  
REGULAR TOWN BOARD MEETING**

**Town Hall**

**7:00 P.M.**

Dan Underhill, Deputy Supervisor led the pledge to the flag.

**Roll Call**

**Present:** Supervisor Post  
Deputy Supervisor Underhill  
Councilman Lang  
Councilwoman Michalak  
Councilman Gerace

**Others**

**Present:** Town Clerk Morasco  
Highway Superintendent Cook  
Building Inspector Worthington  
Town Assessor Cleveland  
Steve Lockwood, GCEDC  
Tony Mancuso

The Supervisor called the meeting to order at 7:03 P.M.

**MINUTES:**

**December 19, 2007 Regular Town Board Meeting:** Motion Deputy Supervisor Underhill, second Councilman Gerace to approve the minutes as written.

**Ayes:** Underhill, Gerace, Lang, Michalak, Post

**MOTION CARRIED by unanimous vote (5-0)**

**January 16, 2008 Public Hearing- Local Law #1 of 2008-Prohibit Parking on Park Road:** Motion Councilman Lang, second Councilwoman Michalak to approve the minutes as written.

**Ayes:** Lang, Michalak, Gerace, Underhill, Post

**MOTION CARRIED by unanimous vote (5-0)**

**January 16, 2008 Regular Town Board Meeting:** Motion Deputy Supervisor Underhill, second Councilman Lang to approve the minutes as written.

**Ayes:** Underhill, Lang, Michalak, Gerace, Post

**MOTION CARRIED by unanimous vote (5-0)**

**January 30, 2008 Special Town Board Meeting:** Motion Deputy Supervisor Underhill, second Councilman Lang to approve the minutes as written.

**Ayes:** Underhill, Lang, Michalak, Gerace, Post

**MOTION CARRIED by unanimous vote (5-0)**

**February 6, 2008 Public Hearing-Local Law #2 of 2008-To Enact Comprehensive Changes to the Zoning Ordinance:** Motion Deputy Supervisor Underhill, second Councilman Lang to approve the minutes as written.

**Ayes:** Underhill, Lang, Michalak, Gerace, Post

**MOTION CARRIED by unanimous vote (5-0)**

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**RESOLUTION NO. 43:**

Councilman Lang offered the following:

**SAFEHOMES WEEK  
PROCLAMATION**

**WHEREAS**, SafeHomes is a program in Genesee and Orleans County that provides parents an opportunity to join together to help provide a safer environment for children and

**WHEREAS**, a SafeHomes membership campaign has been launched in every school district in Genesee County and a member base has been established; and

**WHEREAS**, community-wide support for the prevention of alcohol and other drug use and abuse among youth continues to grow.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby designates February 25 through February 29 as SafeHomes Week and commend parents and families who have pledged to encourage a safe and healthy lifestyle for young people.

**Second by:** Councilwoman Michalak  
**Ayes:** Lang, Michalak, Gerace, Underhill, Post  
**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 44:**

Deputy Supervisor Underhill offered the following:

**SEQR DETERMINATION- NEGATIVE DECLARATION  
LOCAL LAW NO. 2 OF 2008- COMPREHENSIVE CHANGES  
TO THE ZONING ORDINANCE**

**WHEREAS**, in accordance with the State Environmental Quality Review Act (SEQRA) the proposed Local Law No. 2 of 2008 is to provide comprehensive changes to the zoning ordinance that encompasses the entire Town, including revisions to the text and map of the Town of Batavia Zoning Ordinance, it is a Type 1 Action; and

**WHEREAS**, the Batavia Town Board acting as Lead Agency has reviewed the SEQR Full Environmental Assessment Form; and

**WHEREAS**, it has been determined that the proposed amendments will not have an adverse impact on the environment.

**NOW, THEREFORE BE IT**

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**RESOLVED**, the Batavia Town Board hereby directs the Supervisor to prepare the Negative Declaration Notice of Determination of Non-Significance to amend the zoning ordinance that encompasses the entire Town, including revisions to the text and map of the Town of Batavia Zoning Ordinance and administer it accordingly.

**Second by:** Councilman Lang

**Ayes:** Underhill, Lang, Michalak, Gerace, Post

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 45:**

Supervisor Post offered the following:

**RESOLUTION ADOPTING LOCAL LAW #2 OF 2008**

**WHEREAS**, proposed Local Law #2 of 2008 of the Town of Batavia entitled “A Local Law to Enact Comprehensive Changes to the Zoning Ordinance”, which proposed Local Law in its final form was presented to the Town Board at the meeting held on January 16, 2008, and a copy thereof was kept with the Town Clerk and copies were both laid upon the desks of the members of said Town Board and mailed to each member of the Town Board not in attendance at said meeting, at least ten (10) days, exclusive of Sundays, prior to its final passage; and

**WHEREAS**, ten (10) days written notice of any proposed regulations, restrictions or boundaries of districts within the Town and amendments thereto was given by mail by the Town to each person or persons required to be notified pursuant to New York State Town Law Section 264(2); and

**WHEREAS**, a public hearing on the advisability of enacting said proposed Local Law was held on February 6, 2008, 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**, all required referrals to the Genesee County Planning Board and the Batavia Town Planning Board, as well as all required publications and postings, have been properly completed; 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 2008 is in the best interests 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 2008, be and the same hereby is adopted, and such Local Law shall be entered in the minutes of the Batavia Town Board; and

**BE IT FURTHER RESOLVED**, that the Town of Batavia Zoning Ordinance is hereby amended as more fully set forth in said Local Law; and

**BE IT FURTHER RESOLVED**, that certified copies of said Local Law #2 of 2008 be filed with the New York State Secretary of State in accordance with Law; and

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**BE IT FURTHER RESOLVED**, that a summary of the provisions pursuant to Local Law #2 of 2008 be published once in The Daily News and that an affidavit of publication thereof be filed with the Town Clerk; and

**BE IT FURTHER RESOLVED**, that this Local Law shall become effective as provided by law upon its filing in the Office of the Secretary of State.

**Second by:** Deputy Supervisor Underhill  
**Ayes:** Post, Underhill, Michalak, Gerace, Lang  
**APPROVED by unanimous vote** (5-0)

**Discussion-** Prior to the vote the Supervisor expressed his thanks to all the people and Boards involved with the revisions to the Comprehensive Master Plan and the Zoning Ordinance. A number of individuals collaborated to get it to this final form.

The Town Planning Board unanimously reaffirmed their support to these revisions.

**NOTICE OF ADOPTION OF AMENDMENT TO**  
**THE TOWN OF BATAVIA, NEW YORK ZONING ORDINANCE**

**PUBLIC NOTICE** is hereby given that the Town Board of the Town of Batavia, New York, on the 20<sup>th</sup> day of February, 2008, adopted Local Law #2 of 2008 entitled "A Local Law to Enact Comprehensive Changes to the Zoning Ordinance". Said Local Law proposes to amend portions of Article 235 of the Code of the Town of Batavia, designated as the "Town of Batavia Zoning Ordinance", as summarized as follows:

1. To amend § 235-5 to add new definitions.
2. To amend the Zoning Map to provide for the changes recommended in the Town's Comprehensive Plan Update. Most of these changes are located on portions of West Main Street Road (Route 5), South Main Street Road, the industrial zone between Creek Road and Ellicott Street Road, East Main Street Road (Route 5), Clinton Street Road (Route 33), State Street Road both north and south of Interstate 90, Oak Orchard Road (Route 98) north of Interstate 90, and Lewiston Road (Route 63) south of Interstate 90.
3. To amend § 235-14 to change the floor area of buildings that need a 5 foot setback from 150 square feet to 250 square feet.
4. To amend the Zoning District Regulations in Article IV to eliminate the designation of Agricultural District to be included under the designation of Agricultural-Residential District; to amend certain portions of the area regulations in Zoning Schedule A; to allow certain new uses designated as Auction House, Dwelling, Twin Home, Town House, Town House Clusters, Town House

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Developments and Non-Commercial Wind Energy Systems; to add a new District known as a Hamlet Commercial District; and to add a new District designated as Planned Business Development District.

5. To amend § 235-37 to change the criteria for buffering motor vehicle, farm and heavy equipment related uses from residential areas.
6. To amend § 235-39 known as the “Sign Ordinance” in several sections to add more precise definitions and to expand the maximum sizes of freestanding signs.
7. To amend Article V entitled “Supplemental Regulations” to add a new use and criteria for multi-family dwellings, townhouses and twin homes.
8. To amend Article V entitled “Supplemental Regulations” to add a new use and criteria for auction houses.
9. To amend § 235-63(D)(5) with regard to special use permits to allow only the Zoning Board of Appeals to grant a variance for modifications to dimensional requirements (set backs, lot size, etc.).
10. To add a new Schedule B entitled “Table of Uses”.

**PLEASE TAKE FURTHER NOTICE** that this Notice represents only a summary of the Zoning Ordinance amendment adopted. A complete copy of the Local Law is on file at the Office of the Batavia Town Clerk, located at 3833 West Main Street Road, in the Town of Batavia, New York, and is open for public inspection during regular office hours.

Dated: Batavia, New York  
February 20, 2008

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

**RESOLUTION NO. 46:**

Councilwoman Michalak offered the following:

**SEQR DETERMINATION- NEGATIVE DECLARATION**  
**LOCAL LAW NO. 3 OF 2008- AMEND THE ZONING ORDINANCE TO ADD CRITERIA**  
**FOR WIND ENERGY SYSTEMS**

**WHEREAS**, in accordance with the State Environmental Quality Review Act (SEQRA) the proposed Local Law No. 3 of 2008 is to amend the zoning ordinance to add criteria for Wind Energy

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Systems, it is a Unlisted Action; and

**WHEREAS**, the Batavia Town Board acting as Lead Agency has reviewed the SEQR Short Environmental Assessment Form; and

**WHEREAS**, it has been determined that the proposed amendments will not have an adverse impact on the environment.

**NOW, THEREFORE BE IT**

**RESOLVED**, the Batavia Town Board hereby directs the Supervisor to prepare the Negative Declaration Notice of Determination of Non-Significance to amend the zoning ordinance to add criteria for Wind Energy Systems and administer it accordingly.

**Second by:** Councilman Gerace

**Ayes:** Michalak, Gerace, Lang, Underhill, Post

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 47:**

Councilman Gerace offered the following:

**RESOLUTION ADOPTING LOCAL LAW #3 OF 2008**

**WHEREAS**, proposed Local Law #3 of 2008 of the Town of Batavia entitled "A Local Law to Amend the Town of Batavia Zoning Ordinance to Add Criteria for Wind Energy Systems", which proposed Local Law in its final form was presented to the Town Board at the meeting held on January 16, 2008, and a copy thereof was kept with the Town Clerk and copies were both laid upon the desks of the members of said Town Board and mailed to each member of the Town Board not in attendance at said meeting, at least ten (10) days, exclusive of Sundays, prior to its final passage; and

**WHEREAS**, ten (10) days written notice of any proposed regulations, restrictions or boundaries of districts within the Town and amendments thereto was given by mail by the Town to each person or persons required to be notified pursuant to New York State Town Law Section 264(2); and

**WHEREAS**, a public hearing on the advisability of enacting said proposed Local Law was held on February 20, 2008, 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**, all required referrals to the Genesee County Planning Board and the Batavia Town Planning Board, as well as all required publications and postings, have been properly completed; and

**WHEREAS**, the Town Board of the Town of Batavia, New York, is of the opinion that adoption of said proposed Local Law #3 of 2008 is in the best interests 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 #3 of 2008, be and the same hereby is adopted, and such Local Law

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shall be entered in the minutes of the Batavia Town Board; and

**BE IT FURTHER RESOLVED**, that the Town of Batavia Zoning Ordinance is hereby amended as more fully set forth in said Local Law; and

**BE IT FURTHER RESOLVED**, that certified copies of said Local Law #3 of 2008 be filed with the New York State Secretary of State in accordance with Law; and

**BE IT FURTHER RESOLVED**, that a summary of the provisions pursuant to Local Law #3 of 2008 be published once in The Daily News and that an affidavit of publication thereof be filed with the Town Clerk; and

**BE IT FURTHER RESOLVED**, that this Local Law shall become effective as provided by law upon its filing in the Office of the Secretary of State.

**Second by:** Councilman Lang

**Ayes:** Gerace, Lang, Underhill, Michalak, Post

**APPROVED by unanimous vote (5-0)**

**NOTICE OF ADOPTION OF AMENDMENT TO**

**THE TOWN OF BATAVIA, NEW YORK ZONING ORDINANCE**

**PUBLIC NOTICE** is hereby given that the Town Board of the Town of Batavia, New York, on the 20<sup>th</sup> day of February, 2008, adopted Local Law #3 of 2008 entitled "A Local Law to Amend the Town of Batavia Zoning Ordinance to Add Criteria for Wind Energy Systems". Said Local Law provides for an amendment to the Town of Batavia Zoning Ordinance, which amendment is summarized as follows:

Said Local Law establishes definitions for non-commercial wind energy systems as being primary for on-site consumption, and has a nameplate capacity of 50 kW or less, a total height of 175 feet or less, and a blade length of 30 feet or less. The Local Law further defines commercial wind energy systems as being all other systems that exceed the aforesaid limits. The Local Law sets forth regulations for a non-commercial wind energy system to be located only in Agricultural-Residential (A-R) zoning districts and prohibits commercial wind energy systems in any area or zone within the Town of Batavia.

**PLEASE TAKE FURTHER NOTICE** that this Notice represents only a summary of the Zoning Ordinance amendment adopted. A complete copy of the Local Law is on file at the Office of the Batavia Town Clerk, located at 3833 West Main Street Road, in the Town of Batavia, New York, and is

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open for public inspection during regular office hours.

Dated: Batavia, New York  
February 20, 2008

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

**RESOLUTION NO. 48:**

Councilman Lang offered the following:

**SURPLUS EQUIPMENT**

**WHEREAS**, the Highway Superintendent recommended to the Batavia Town Board to declare the following equipment as surplus:

- 1- Computer, Inventory #45, (hard drives to be removed and destroyed)
- 4- Monitors
- 4- Keyboards
- 3- Mouse Controls
- 1- Epson C80 Printer
- 1- Okidata Microline 591 Printer
- 1- Two Drawer File Cabinet –no lock
- 1- Three Drawer File Cabinet – lock broken
- 3-Office Chairs
- 1- Canon Printer

**RESOLVED**, the Batavia Town Board hereby declares the aforementioned equipment to be surplus and authorizes the Highway Superintendent to sell it at the auction or place it out to bid along with the equipment that was declared surplus at the January 16, 2008 Town Board Meeting.

**Second by:** Deputy Supervisor Underhill

**Ayes:** Lang, Underhill, Michalak, Gerace, Post

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 49:**

Deputy Supervisor Underhill offered the following:

**HEATING & AIR CONDITIONING**  
**PREVENTIVE MAINTENANCE INSPECTIONS CONTRACT**

**RESOLVED**, the Batavia Town Board hereby accepts Turnbull Heating & Air Conditioning's proposal to perform Heating and Air Conditioning Prevention Maintenance Inspections for Winter and



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Summer Operations at the Town Hall for one year (proposal attached); and

**BE IT FURTHER, RESOLVED** the Batavia Town Board hereby authorizes the Supervisor to execute the proposal.

**Second by:** Councilman Lang

**Ayes:** Underhill, Lang, Michalak, Gerace, Post

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 50:**

Supervisor Post offered the following:

**APPOINTMENT TO ZONING BOARD OF APPEALS-ALTERNATE MEMBER  
TO FILL AN UNEXPIRED TERM**

**WHEREAS**, John Della Penna, 8910 Lehigh Road, Batavia, New York, was appointed to the Town of Batavia Zoning Board of Appeals as an alternate member on December 20, 2006, his term expiring December 31, 2008; and

**WHEREAS**, John was appointed as a regular member on August 1, 2007 to fill Dorothy Myers unexpired term, creating a vacancy; and

**WHEREAS**, the Town received to applicants who are interested in serving as an Alternate Zoning Board of Appeals Member to fill the remainder of this unexpired term.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby appoints Jeannette Gallant, 5077 Clinton Street Road, #27, Batavia, New York, to the Town of Batavia Zoning Board of Appeals as an alternate member, commencing immediately and expiring December 31, 2008.

**Second by:** Deputy Supervisor Underhill

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 51:**

Councilwoman Michalak offered the following:

**PROPOSAL OF SERVICES AGREEMENT –  
BETWEEN THE TOWN OF BATAVIA AND STUART I. BROWN ASSOCIATES  
SMALL CITIES GRANT APPLICATION**

**WHEREAS**, the Town of Batavia is planning to submit an application to the Governor's Office for Small Cities Grant to request funding to construct needed improvements to Sanitary Sewer District #1; and

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**WHEREAS**, Stuart I. Brown Associates submitted a proposal to prepare the Small Cities Grant Application at a cost of four thousand dollars (\$4,000.00 ) (proposal attached).

**NOW, THEREFORE, BE IT RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor to retain Stuart I. Brown Associates to prepare the 2008 Small Cities Grant Application at a cost of four thousand dollars (\$4,000.00) and to execute an agreement between the Town of Batavia and Stuart I. Brown Associates.

**Second by:** Councilman Gerace  
**Ayes:** Michalak, Gerace, Lang, Underhill, Post  
**APPROVED by unanimous vote** (5-0)

**RESOLUTION NO. 52:**

Councilman Gerace offered the following:

**RESOLUTION TO SCHEDULE A PUBLIC HEARING REGARDING  
A FINAL PLAN FOR A PLANNED UNIT DEVELOPMENT**

**WHEREAS**, on January 10, 2008, the Genesee County Economic Development Center on behalf of the Genesee Gateway Local Development Corporation submitted a Final Plan with regard to a Planned Unit Development to be entitled "Upstate New York Medical and Technology Park", and

**WHEREAS**, this Final Plan involves approximately 34 acres located on Assemblyman R. Stephen Hawley Drive across from Genesee Community College, and

**WHEREAS**, the proposed Final Plan has been forwarded for review to the Town of Batavia Planning Board and the Genesee County Planning Board, and

**WHEREAS**, pursuant to §235-31(C)(3)(g), the Town Board must schedule a Public Hearing prior to determining whether or not to approve, approve with modification or disapprove this Final Plan.

**NOW, THEREFORE, BE IT RESOVLED**, by the Town Board of the Town of Batavia, New York, that a Public Hearing shall be held on the 19<sup>th</sup> day of March, 2008, at 6:50 p.m. of that day, at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, to consider the advisability of approving, approving with modifications or disapproving said Final Plan, and

**BE IT FURTHER REOLVED**, that the Town Clerk shall cause notice of said Public Hearing to be published once in The Daily News at least ten (10) 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 the Final Plan and all related documents are on file in the Town Clerk's Office.

**Second by:** Deputy Supervisor Underhill  
**Ayes:** Gerace, Underhill, Michalak, Lang, Post  
**APPROVED by unanimous vote** (5-0)

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**RESOLUTION NO. 53:**

Councilman Lang offered the following:

**APPROVAL OF CHANGE ORDER #2**  
**SAILE DRIVE SANITARY SEWER MAIN**

**WHEREAS**, MILHERST CONSTRUCTION, INC. is under contract with the Town of Batavia for the Saile Drive Sanitary Sewer Main Project,

**WHEREAS**, MILHERST CONSTRUCTION, INC. has submitted a change order request for adjustments to bid quantities and owner requested changes in the amount of \$100,037.79 (attached),

**WHEREAS**, CLARK PATTERSON LEE has recommended approval of the change order request,

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Town of Batavia Town Board hereby authorizes the Supervisor to execute the attached Change Order to be financed in part by additional grant funding and/or from available Town funds for economic development purposes.

**Second by:** Deputy Supervisor Underhill

**Ayes:** Lang, Underhill, Michalak, Gerace, Post

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 54:**

Deputy Supervisor Underhill offered the following:

**AWARD BID - TRANSFER STATION**

**WHEREAS**, the Batavia Town Board authorized receipt of sealed bids for refuse removal at the Town of Batavia Transfer Station, and

**WHEREAS**, the bid opening date was scheduled for Thursday, February 14, 2008 at 3:00 P.M. at the Town Hall (bid summary attached);

**WHEREAS**, the low bidder was Modern Disposal Services, Incorporated, Model City, New York.

**RESOLVED**, the Batavia Town Board hereby awards the bid for refuse removal at the Batavia Transfer Station to Modern Disposal Services, Incorporated, at a cost of forty-two dollars (\$42.00) per ton for household garbage and construction/demolition debris, fifty dollars (\$50.00) per month roll-off rental and one hundred sixty dollars (\$160.00) per haul.

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**Second by:** Councilman Lang  
**Ayes:** Underhill, Lang, Michalak, Gerace, Post  
**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 55:**

Supervisor Post offered the following:

**ORDER CALLING FOR A PUBLIC HEARING-  
SMALL CITIES GRANT  
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS APPLICATION**

**WHEREAS,** the Batavia Town Board wishes to submit an application for a Small Cities grant to fund the Economic Development project to provide a grant and term loan financing for a new printing company purchasing a facility in the Town of Batavia; and

**WHEREAS,** a public hearing is required on the proposed application to fund the project.

**NOW THEREFORE, BE IT**

**RESOLVED,** the Batavia Town Board hereby calls for a Public Hearing whereat all interested persons shall be heard; and

**BE IT FURTHER RESOLVED,** that the Public Hearing will be held at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York at 7:00 o'clock P.M. on the 5<sup>th</sup> of March, 2008; and

**BE IT FURTHER RESOLVED,** the Town Clerk is hereby directed to have published at least once in "The Daily News" at least ten (10) days before the date scheduled for Public Hearing, the Public Hearing Notice which is attached hereto.

**Second by:** Deputy Supervisor Underhill  
**Ayes:** Post, Underhill, Michalak, Gerace, Lang  
**APPROVED by unanimous vote (5-0)**

**REMOVE FROM TABLE-**Motion Councilman Gerace, second Deputy Supervisor Underhill to remove from table the resolution entitled, "Cable Television Renewal Franchise Agreement Between the Town of Batavia and Time Warner Entertainment-Advance/Newhouse Partnership".

**Ayes:** Gerace, Underhill, Michalak, Gerace, Post

**MOTION CARRIED by unanimous vote (5-0)**

**RESOLUTION NO. 56:**

Councilwoman Michalak offered the following:

**CABLE TELEVISION RENEWAL FRANCHISE AGREEMENT BETWEEN  
THE TOWN OF BATAVIA AND TIME WARNER ENTERTAINMENT-  
ADVANCE/NEWHOUSE PARTNERSHIP**

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**WHEREAS**, pursuant to the Communications Act of 1934, as amended (the “Communications Act”), the Board has the authority to grant cable television franchises for and in the Town of Batavia; and

**WHEREAS**, the Batavia Town Board has considered the technical ability, financial condition, and character of Time Warner Entertainment Advance/Newhouse Partnership (Time Warner) before a public hearing on the 18<sup>th</sup> day of July, 2007; said public hearing and negotiations included considerations of Time Warner Cable’s plans for constructing and operating, maintaining and repairing the herein described and referred to video system; and

**WHEREAS**, notice of such public hearing was provided to all parties so entitled to notice. The notice was published on July 7, 2007; and

**WHEREAS**, the Board has determined that the proposed cable franchise for Time Warner fulfills the needs of the Town of Batavia with respect to cable television service and complies with the standards and requirements of the New York Public Service Commission.

**NOW, THEREFORE, BE IT:**

**RESOLVED**, that the Batavia Town Board hereby grants Time Warner a renewal cable franchise in the Town of Batavia; and be it

**FURTHER RESOLVED**, that the Town Board approves the Renewal Franchise Agreement between the Town of Batavia and Time Warner, subject to modifications required by the New York Public Service Commission, a copy of which is annexed and made part of the minutes; and be it

**FURTHER RESOLVED**, that the Town Supervisor is authorized to execute the Renewal Franchise Agreement on behalf of the Town of Batavia.

**Second by:** Councilman Gerace

**Ayes:** Michalak, Gerace, Lang, Underhill, Post

**APPROVED by unanimous vote (5-0)**

**Discussion-** Prior to the vote the Supervisor thanked Councilwoman Michalak, the Town Board and Time Warner for the final form of this agreement.

The additional language that was added, reflects, that with notice, Time Warner would attend meetings on future developments.

**RESOLUTION NO. 57:**

Councilman Gerace offered the following:

**DEDICATION OF COR VETERANS MEMORIAL DRIVE COMPANY, LLC RELOCATED  
SANITARY SEWER**

**WHEREAS**, COR VETERANS MEMORIAL DRIVE COMPANY, LLC has relocated sanitary

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sewers to accommodate a new shopping plaza, Towne Center at Batavia, located in Sewer District No. 2; and

**WHEREAS**, the Town of Batavia owns, maintains and operates Sewer District No. 2 which incorporates the relocated sanitary sewers; and

**WHEREAS**, COR VETERANS MEMORIAL DRIVE COMPANY, LLC has constructed/relocated sewer lines, as shown on Sanitary Sewer As-Built drawings ASB-01 and ASB-02 dated December 20, 2007, under the supervision of the Town of Batavia, and in accordance with the rules, regulations and laws regarding such construction; and

**WHEREAS**, COR VETERANS MEMORIAL DRIVE COMPANY, LLC has requested the Town of Batavia to accept dedication of said sewer lines as part of Sewer District No. 2 and has granted all necessary easements for same;

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Town of Batavia accepts dedication of said sewer lines from COR VETERANS MEMORIAL DRIVE COMPANY, LLC, as part of the Town of Batavia Sewer District No. 2.

**Second by:** Councilwoman Michalak  
**Ayes:** Gerace, Michalak, Lang, Underhill, Post  
**APPROVED by unanimous vote (5-0)**

**SUSPEND THE RULES:** Motion Councilman Gerace, second Deputy Supervisor Underhill to suspend the rules to introduce additional resolutions.

**Ayes:** Underhill, Gerace, Lang, Michalak, Post  
**MOTION CARRIED by unanimous vote (5-0)**

**RESOLUTION NO. 58:**

Councilman Lang offered the following:

**AUTHORIZING BUDGET TRANSFERS FOR 2007**

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

**General Fund:**

<b><u>From</u></b>	<b><u>Amount</u></b>	<b><u>To</u></b>
A1110.104 Justice Pers. Serv.	\$.02	A1110.102 – Justice Pers Svc
A1110.200 Justice – Equip.	\$1232.27	A1110.403 Justice DA
A1110.107 Justice – Clerk	\$1385.15	A1110.403 Justice DA
A1110.201 Justice – Equip,	\$57.58	A1110.403 Justice DA
A1110.201 Justice – Equip.	\$189.92	A1110.401 Justice Contr.
A1010.403 Town Board Contr.	\$.02	A1220.100 Supervisor – Pers. Svc

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A1220.401 Supervisor – Contr.	\$263.81	A1220.101 Supervisor – Pers. Svc
A1220.400 Supervisor – Contr.	\$277.85	A1220.102 Supervisor – Pers. Svc
A1010.403 Town Board – Contr.	\$309.40	A1220.102 Supervisor – Pers Svc
A1010.403 Town Board – Contr.	\$212.25	A1231.100 Dep. Clerk – Pers Svc
A1330.200 Tax Coll. Equip.	\$34.23	A1330.101 Tax Collector – Pers Svc
A1355.200 Assessor. – Equip.	\$.10	A1355.100 Assessor – Pers. Svc.
A1355.200 Assessor – Equip.	\$339.12	A1355.101 Assessor – Stipend
A1420.400 Attorney – Contr.	\$2820.88	A1420.403 Attorney – Union
A1440.102 Engineer – Pers Svc	\$180.60	A1440.101 Engineer – Pers Svc
A1620.200 Building – Equipment	\$1173.48	A1620.403 Building – Janitorial
A1620.200 Building – Equip.	\$241.01	A1620.404 Buildings – Contr.
A1680.402 Central data Proc. Web Contr.	\$9.27	A1680.400 Centr. Data Proc. –
A1940.400 Land Acquisition	\$918.40	A3620.100 Bldg & Safety – Pers Svc
A1940.400 Land Acquisition	\$208.25	A3620.101 Bldg & Safety – Pers Svc
A1940.400 Land Acquisition	\$5600.00	A3620.200 Bldg & Safety Equip.
A1940.400 Land Acquisition	\$343.00	A3620.400 Bldg & Safety – Contr.
A1940.400 Land Acquisition	\$156.85	A3620.401 Bldg & Safety – Legal
A1940.400 Land Acquisition	\$5495.00	A3620.402 Bldg & Safety –Engineer
A5132.200 Garage – Equip.	\$319.02	A5132.101 garage - Clerk
A5132.402 Garage – operating Exp.	\$219.51	A5182.400 St Light – Contr.
A8120.101 sewer Imp Thr – Pers Svc	\$237.35	A8162.100 Trs. St. – Pers Svc
A8120.101 sewer Imp Thr – Pers Svc	\$860.70	A8162.400 Trs. St. – Contr.
A8165.400 Superfund – Fuel	\$.06	A8165.101 Superfund – Pers Svc.
A8165.400 Superfund – Fuel	\$715.98	A 8165.402 Superfund – Engineer
A8165.401 Superfund – Filters	\$12.52	A 8165.402 Superfund – Engineer
A8165.401 Superfund – Filters	\$187.48	A8165.404 Superfund – Legal
A8165.408 Superfund – Ins.	\$330.30	A8165.404 Superfund – Legal
A8165.408 Superfund – Ins.	\$266.70	A8165.405 Superfund – Treatment
A7510.402 Historic Books	\$25.60	A8165.405 Superfund – Treatment
A7510.402 Historic Books	\$596.50	A8165.407 Superfund – trsnp.
A9089.800 In Lieu Of	\$325.60	A9089.801 Eye Exam

**Highway**

DA5130.400 Machinery Contr. Contr.	\$2256.01	DA5142.400 Snow Removal –
DA5110.400 Gen Rep – Contr.	\$6672.14	DA5142.100 Snow Removal – Pers
DA9060.800 Health Ins.	\$4595.44	DA5142.100 Snow Removal – Pers.
DA5130.200 Machinery – Equip.	\$2003.11	DA5142.100 Snow Removal – Pers.
DA9030.800 Social Security	\$770.91	DA5142.100 Snow Removal- Pers.

**Sewer District 1**

SS1-8110.400 Sewer Admin. Contr. Svc.	\$41.08	SS1-8110.100 Sewer Admin. Pers
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SS1-8120.102 Sanitary Sewer PT	\$71.20	SS1-8120.103 Sanitary Swr Pers Svc
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**Sewer District 2**

SS2-8110.100 Sewer Admin Pers. Svc	\$166.65	SS2-8110.400 Sewer Admin. Contr.
SS2-8120.102 Sanitary Sewer – Pers svc	\$106.80	SS2-8120.103 Sanitary Pers. Svc
SS2-8120.400 Sanitary Sewer Contr.	\$16473.20	SS2-8130.400 Sewage Tr. Contr.

**Water**

SW8310.400 Wtr.Admin. Contr.	\$328.64	SW8310.100 Admin. Pers. Svc.
SW8340.102 Trs/Distr. PT	\$534.00	SW8340.103 Trs. Distr. Pers. Svc.
SW8340.102 Trs/Distr. PT	\$240.57	SW8340.400 Trs Dist – Contr.

**Second by:** Deputy Supervisor Underhill  
**Ayes:** Lang, Underhill, Michalak, Gerace, Post  
**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 59:**

Deputy Supervisor Underhill offered the following:

**BUDGET TRANSFER 2007 – UNAPPORRIATED-UNEXPENDED FUND**

**RESOLVED**, the Batavia Town Board hereby authorizes an increase in line item number A8540.400 Community Environment Drainage-Lewiston/W Main in the amount of \$317,351.22; and be it

**FURTHER RESOLVED**, to fund this expense, \$257,674.51 will be transferred from the Unappropriated-Unexpended Fund Balance and \$59,676.71 will be transferred from A2779 Drainage Revenue.

**Second by:** Councilman Lang  
**Ayes:** Underhill, Lang, Michalak, Gerace, Post  
**APPROVED by unanimous vote (5-0)**

**Abstract No. 2-2008:** Motion Councilman Lang, second Councilman Gerace to authorize the Supervisor to pay the following vouchers:

General	\$ 47,983.78
Highway	32,271.48
Sewer No. 1	25,313.90
Sewer No. 2	34,927.80
Water	133,284.72
Pearl St Rd Water	4,300.00
Wilkinson Rd Water	7,946.00
Putnam/Shepard Water	301,142.21



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Ellicott/Townline Wter	40,691.12
Saile Sewer	<u>53,045.00</u>
<b>TOTAL</b>	<b>\$680,906.01</b>

Check numbers 12198 thru 12295, ACH 14

**Ayes:** Lang, Gerace, Underhill, Michalak, Post

**MOTION CARRIED by unanimous vote (5-0)**

**DEPARTMENT REPORTS:**

**Highway Superintendent/Water/Sewer Supervisor** reported on the following:

**Winter**-Keeping up the best that they can. There are numerous potholes with the weather constantly thawing and freezing.

**High Pressure Washer**- Having problems with the 10 year old high pressure washer and would like to review this with the Supervisor and Deputy Supervisor.

**Transfer Station Fees**-The Transfer Station budget/revenues is deficient and he would like to review the fee structure with the Supervisor and Councilman Lang.

A meeting was scheduled for Wednesday, February 27 at 7:30 A.M. to discuss the Pressure Washer and Transfer Station fees.

**Personnel Issues**- Has a couple of Personnel issues to discuss. He was advised that this was not the time and place to discuss them.

**Building Inspector** reported on the following:

**Zoning Ordinance**-On behalf of himself and the Planning Board, he thanked the Town Board for moving forward with the Zoning Ordinance Amendments.

**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 between 3.15% and 3.50%.

**GAM**- Meeting is tomorrow evening at 7:00 P.M. and will be held in Alexander. The Town of Batavia will be hosting the March 20<sup>th</sup> meeting.

**CARPET CLEANING**-Motion Councilman Lang, second Councilman Gerace authorizing Warren's Carpet to clean the Town Hall carpets at a cost of \$753.59, contingent upon providing full insurance coverage.

**Ayes:** Lang, Gerace, Underhill, Michalak, Post

**MOTION CARRIED by unanimous vote (5-0)**

**NYS TOWN CLERK'S CONFERENCE/LOCAL GOVERNMENT CONFERENCE**- Motion Supervisor Post, second Deputy Supervisor Underhill authorizing the Town Clerk to attend either the NYS Town Clerk's Association Conference April 27 through April 30 in Saratoga Springs or the Local Government Conference June 1 through June 3 in Albany.

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**Ayes:** Post, Underhill, Michalak, Gerace, Lang  
**MOTION CARRIED by unanimous vote (5-0)**

**Town Assessor Cleveland** reported on the recent article that was published in the Daily News on Consolidating Assessment in Genesee County. The Genesee County Assessors Association's view and his view differ. Mr. Cleveland has supported the initiative of the Consolidated Assessment Program (CAP) and just wanted to express to the Board his continued support of the CAP. In his opinion, he does not feel that the Home Rule is being threatened and continues to support it.

**COMMUNICATIONS:**

**The Town Clerk** reported on the following:

**January Town Clerk monthly report** collected a total \$3,107.81, remitted \$2,731.69 to the Supervisor for the Local Share.

**2008 Town/County Taxes** –January Taxes Collected \$2,633,761.10, \$755,719.16 was remitted to the Supervisor for Town Levy and the remainder was remitted to the County.

**Local Government Conference**–Assemblyman Hawley is hosting a Local Government Conference June 1 to June 3 for Elected and Appointed Officials. Reservations need to be made by March 7.

**Liquor License**– Received notice that Terry Hills has applied for their Liquor License Renewal.

**Energy Services Providers**– Received a quote for electric service from Energy Services Providers and they cannot beat National Grids rate. Energy Services Providers rate quote was between .06937 and .08321.

**Farmland Protection Workshop** –Farmland Protection Workshop is scheduled for March 25 at 7:00 at Genesee County Building #2. The Supervisor would like the information forwarded to the Town's Consultants, Stuart Brown Associates.

**COMMITTEE REPORTS:**

**Cable Franchise**–Councilwoman Michalak will set up a meeting with Time Warner to execute the agreements and ask the Daily News to come to report on it.

**NEW BUSINESS:**

**NYS Association of Towns Conference**–Councilman Gerace and Deputy Supervisor reported on their attendance at the NYS Association of Towns Conference that was held in NYC. The days were filled with Seminars and they met a lot of people from other communities. There is a huge push for more collaboration/shared services rather than consolidation. They brought back information from the various vendors that attended.

**ADJOURNMENT:**

Motion Councilman Gerace, second Councilwoman Michalak to adjourn the Regular Town Board Meeting at 8:07 P.M.

**Ayes:** Gerace, Michalak, Lang, Underhill, Post  
**MOTION CARRIED by unanimous vote (5-0)**

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Respectfully submitted,

Teressa M. Morasco  
Town Clerk