

**NOVEMBER 19, 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
Building Inspector Worthington
Roger Muehlig, Daily News Reporter
Ted Hawley
Craig Yunker
Several People in Support of the Sports Playing Fields

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

October 22, 2008 Regular Town Board Meeting, November 5, 2008 Public Hearing-2009 Town Budget, November 5, 2008 Public Hearing-Sewer Rents, November 5, 2008 Public Hearing-Water Rates, and November 5, 2008 Special Town Board Meeting: Motion Councilman Gerace, second Councilwoman Michalak to approve the minutes as written.

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

SPEAKERS:

Ted Hawley addressed the Town Board to express the need for sports playing fields in the community. Mr. Hawley is very active in a number of youth sports organizations and it is difficult to exercise these sports because of the lack of green space. Approximately 350 players use the fields at Genesee Community College and will be displaced this summer because of a project the College has scheduled. The Batavia Youth Football league is in need of a field as well. They consist of 300 players/cheerleaders. There is a total of approximately 1140 adult and youth sports players in Genesee County. Mr. Hawley is proposing the Town lease property on Bank Street Road from Batavia Turf owner Craig Yunker. It would be an all-inclusive package with Mr. Hawley as the field caretaker. Currently there are 15 acres ready for the proposed five-full size fields and 70 acres to expand.

Craig Yunker stated that in Niagara County the City of Lockport leases private property for public use. It would leave the property on the tax roll.

The Town is currently partnering with the City School District for a needs assessment for recreation. Supervisor Post stated that he would consider supporting a lease agreement and will keep Mr. Hawley apprised of the needs assessment progress.

Jeremy Havens, Genesee Amateur Soccer Association (GASA) President stated that with the growing number of players, each year there is a level of uncertainty for fields and something needs to be done. There are over 200 games played plus 600 practices.

Mike Freeman, GASA Past President stated that there is only one full size field for soccer and it is

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very difficult because sometime they are scheduled at three different locations.

Pete Guppenberger expressed that it would be a push for tourism and traveling teams when you have quality fields.

Councilman Gerace asked if the fields would require lighting. Mr. Hawley stated that the current fields do not have lighting and the proposed fields would not require lighting either.

The Supervisor thanked everyone for all the support.-

RESOLUTION NO. 174:

Councilman Lang offered the following:

CONGRATULATIONS UPON BEING DESIGNATED EAGLE SCOUT

WHEREAS, John Stephen Ognibene of Troop 650, Alexander has been approved by the National Council Boy Scouts of America to receive the rank of Eagle Scout, and

WHEREAS, Attaining Eagle Scout is an accomplishment achieved by only the most dedicated and upstanding scouts, and

WHEREAS, An Eagle Scout must exhibit the characteristics of good citizenship at a higher level than most, and

WHEREAS, An Eagle Scout must be the epitome of the Scout Law in being “helpful, courteous, kind, obedient, cheerful, thrifty, brave, clean and reverent”, and

WHEREAS, An Eagle Scout must rise above most in his efforts to “help other people at all times”, and

WHEREAS, The nation and the community needs as many citizens as possible who dedicate themselves to being “physically strong, mentally awake and morally straight”, and

WHEREAS, John Stephen Ognibene by virtue of attaining Eagle rank has proven himself to be one who fulfills the above characteristics,

NOW, THEREFORE, BE IT

RESOLVED, That the Batavia Town Board extends its congratulations to Eagle Scout John Stephen Ognibene on receiving this high honor and commends him for the hard work needed to attain it, and be it further

RESOLVED, The Batavia Town Board sends John Stephen Ognibene its best wishes for the future.

Second by: Deputy Supervisor Underhill

Ayes: Lang, Underhill, Michalak, Gerace, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 175:

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Deputy Supervisor Underhill offered the following:

ADOPTION OF 2009 TOWN ANNUAL BUDGET

WHEREAS, the Town of Batavia Chief Fiscal Officer prepared a Tentative Budget for review by the Batavia Town Board, and

WHEREAS, the Town Board met in Budget sessions among themselves and with Town Employees in the formulation of the (Revised) Preliminary Budget, after which a Public Hearing was held on November 5, 2008 for all interested parties to be heard.

RESOLVED, the Batavia Town Board hereby adopts the Revised Preliminary Town Budget as the 2009 Annual Budget of the Town of Batavia.

Second by: Councilman Lang

Ayes: Underhill, Lang, Michalak, Gerace, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 176:

Supervisor Post offered the following:

TOWN OF BATAVIA SEWER RENTS – 2009

WHEREAS, pursuant to General Municipal Law Section 452 as amended, impositions of sewer rents in Sewer Districts No. 1 and No. 2 in the Town of Batavia are subject to approval by the Batavia Town Board;

WHEREAS, these sewer rents are imposed to pay for the cost of wastewater treatment and operation and maintenance of the sewer lines;

WHEREAS, in Sewer District No. 1 the sewer rents for 2009 has been set at five dollars and twenty-five cents (\$5.25) per 1000 gallons;

WHEREAS, in Sewer District No. 2 the sewer rents for 2009 has been set at five dollars and twenty-five cents (\$5.25) per 1000 gallons;

WHEREAS, as required by law and in conjunction with the public hearing held November 5, 2008 for the 2009 Town Budget, these rates were entered in and made a part of the record.

RESOLVED, the Batavia Town Board hereby authorizes the imposition of the aforementioned sewer rents in Sewer Districts No. 1 and No. 2 for one (1) year beginning January 1, 2009.

RESOLVED, the sewer rents are to be paid quarterly in the months of May, August and November, 2009 and February, 2010.

Second by: Deputy Supervisor Underhill

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

RESOLUTION NO. 177:

Councilwoman Michalak offered the following:

TOWN OF BATAVIA WATER RATES – 2009

WHEREAS, pursuant to the Code of the Town, Section 229-15, the Town Board shall by resolution establish and from time to time modify the water rate for all water sold by the Town of Batavia; and

WHEREAS, as a courtesy to the consumers, the Town Board held a public hearing on November 5, 2008 for the establishment of the 2009 water rates; and

WHEREAS, the water rate for May 2009 to February 2010 is set at \$4.22/1,000; and

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the imposition of the aforementioned water rates for one (1) year beginning January 1, 2009.

RESOLVED, the water rates are to be paid quarterly in the months of May, August and November, 2009 and February, 2010.

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

RESOLUTION NO. 178:

Councilman Gerace offered the following:

**AUTHORIZATION TO EXECUTE
MEMORANDUM OF UNDERSTANDING FOR USAGE OF TOWN HALL**

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the Memorandum of Understanding, (attached) regarding the usage of Town facilities for the purpose of New York State Department of Motor Vehicle Hearings.

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

RESOLUTION NO. 179:

Councilman Lang offered the following:

JANITORIAL SERVICES

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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, 2009 to December 31, 2009 at a monthly cost of one thousand, three hundred, fifty dollars and thirteen cents (\$1,350.13) and be it

FURTHER RESOLVED, that Genesee County ARC must provide the Town of Batavia a Certificate of Liability Insurance and a Certificate of Workers Compensation Insurance naming the Town as additional insured, and be it

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

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

RESOLUTION NO. 180:

Deputy Supervisor Underhill offered the following:

FINAL ACCEPTANCE OF PROJECT AS COMPLETE
ELLICOTT/TOWNLINERoads WATERMAIN

WHEREAS, Sergi Construction has certified completion of the Ellicott/Townline Roads Watermain project, and;

WHEREAS, Clark Patterson Lee, P.C. has recommended approval and final acceptance of project as complete (attached); and

WHEREAS, the Town of Batavia has an operator(s) appropriately licensed by New York State to oversee operation of the Ellicott Street and Townline Road Water Project.

NOW, THEREFORE, BE IT

RESOLVED, the Town of Batavia hereby accepts the project as complete and approves final payment.

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

RESOLUTION NO. 181:

Supervisor Post offered the following:

AWARD OF CONTRACT FOR MICROFILMING/IMAGING PROJECT
BIEL'S INFORMATION TECHNOLOGY SYSTEMS

WHEREAS, the Town of Batavia was awarded the Local Government Records Management Improvement Fund (LGRMIF) for microfilming/imaging of building permit files; and

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WHEREAS, the Town Clerk solicited Requests for Proposals for the microfilm/imaging project, which were returnable on October 31, 2008; and

WHEREAS, Biels Information Technology Systems submitted the lowest proposal meeting specifications (attached).

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the contract (request for proposal specifications as binding contract) at a cost not to exceed \$19,183.00; and be it

FURTHER RESOLVED, the amount in excess of the grant amount for these services and equipment is approximately \$10,000 and will be funded/transferred from line items:

A1411.100 Clerk/Typist Part-time	\$5,000.00 to A1410.200
A1410.200 Equipment	\$3,500.00
A1990.400 Contingency	\$1,500.00 to A1410.200

Second by: Councilwoman Michalak

Ayes: Post, Michalak, Lang, Underhill, Gerace

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 182:

Councilwoman Michalak offered the following:

**LATERAL RESTRICTIONS RESOLUTION
ROSE ROAD WATER DISTRICT**

WHEREAS, the Town Board of the Town of Batavia has created the Rose Road Water District pursuant to Town Law for the express purpose of providing public water supply to residents along a portion of Rose Road; and

WHEREAS, part of the land area within the Rose Road Water District is also within Genesee County Agricultural District No. 1; and

WHEREAS, the Town Board has filed a Notice of Intent to Undertake an Action within an Agricultural District and to evaluate the impact of providing a source of public water supply within this area on lands within Agricultural District No. 1; and

WHEREAS, the New York State Department of Agriculture and Markets has expressed concern about the potential adverse impact that said public water supply may have on agriculture within the Agricultural District.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Batavia, in recognition of the concerns that have been raised, hereby resolves to limit connections to the public water supply only to existing non-farm

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uses and to farm related uses within that portion of Rose Road Water District which is also within the limits of Genesee County Agricultural District No. 1.

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

RESOLUTION NO. 183:

Councilman Gerace offered the following:

TOWN OF BATAVIA
GENESEE COUNTY, NEW YORK

EXTRACT OF MINUTES

A meeting of the Town Board of the Town of Batavia, Genesee County, New York was convened in public session at the Town Hall located at 3833 West Main Street Road, in the Town of Batavia, New York on November 19, 2008, at 7:00 o'clock p.m., local time.

The meeting was called to order by the Town Supervisor and, upon roll being called, the following members were:

Councilpersons: Gregory H. Post, Supervisor
Daniel Underhill, Deputy Supervisor
Alfred Lang, Councilman
Patti Michalak, Councilwoman
John Gerace, Councilman

There were absent:

Also present: Teresa M. Morasco, Town Clerk

* * *

The following order was offered by Councilman Gerace, seconded by Deputy Supervisor Underhill, to wit;

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RESOLUTION NO. 183

A meeting of the Town Board of the Town of Batavia, in the County of Genesee, State of New York, was held at the Town Hall, in said Town, on November 19, 2008.

PRESENT:

Hon. Gregory H. Post, Supervisor
Hon. Daniel Underhill, Deputy Supervisor
Hon. Alfred Lang, Councilman
Hon. Patti Michalak, Councilwoman
Hon. John Gerace, Councilman

In the Matter of the Establishment of the Rose Road Water District, in the Town of Batavia, in the County of Genesee, New York, pursuant to Article 12 of the Town Law.

**FINAL ORDER ESTABLISHING THE
ROSE ROAD WATER DISTRICT
NOVEMBER 19, 2008**

WHEREAS, the Batavia Town Board (herein called "Town Board" and "Town", respectively), in the County of Genesee, New York, has received a petition pursuant to Section 191 of the Town Law, for the establishment of the Rose Road Water District, which petition was 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, owners of taxable real property located in the proposed Rose 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 was accompanied by a map, plan and report, dated February 19, 2008, prepared by the Town Engineer, a competent engineer duly licensed by the State of New York, for the establishment of the Rose Road Water District, in the Town of Batavia (the "District"), which map, plan and report is on file at the office of the Town Clerk, and available for public inspection at said location; and

WHEREAS, said proposed improvements consist of a project to provide a safe and reliable portable water supply and fire protection to certain residences in the proposed Rose Road Water District. The overall project will consist of the construction and installation of approximately 11,300 linear feet of eight inch water main running along a portion of Rose Road starting on Rose Road at the existing Town of Batavia Water District No. 3 (Consolidated Water District), and thence running westerly along Rose Road to the west boundary of 3170 Rose Road, Tax Map Parcel No. 17-1-3; together with all related right-of-way costs, site work and other ancillary work, including hydrants, valves, apparatus, preliminary costs and other improvements and costs incidental thereto (referred to herein as "water

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improvement”); the maximum amount proposed to be expended for the construction of such District estimated to be \$658,600; and

WHEREAS, pursuant to the Order duly adopted on March 19, 2008, the Town Board determined to proceed with the proposed establishment of the District and adopted an Order reciting a description of the boundaries of the District the improvements proposed, the maximum amount proposed to be expended for the construction of water improvements in connection with the establishment of the District, the proposed method of financing to be employed, the fact that a map, plan and report describing the same are on file in the Town Clerk’s office for public inspection and specifying April 16, 2008, at 6:45 o’clock p.m. (Prevailing Time) as the time when, and the Batavia Town Hall, located at 3833 West Main Street Road, in the Town, as the place where, the Town Board would meet to consider the proposed establishment of the District and to hear all persons interested in the subject thereof concerning the same, and for such other action on the part of the Town Board in relation thereto, as may be required by law; and

WHEREAS, following publication and posting of certified copies of said Order pursuant to Article 12 of the Town Law and after a public hearing duly held by the Town Board at the time and place herein referred to, the Town Board, by resolution duly adopted April 23, 2008, determined that the notice of public hearing was published and posted as required by law and was otherwise sufficient, that all the property and property owners included within the proposed District were benefited thereby, that all the property and property owners benefited were included within the limits of the proposed District, that it was in the public interest to establish the District and approved the establishment of the District and the construction of water improvements in connection with the District as hereinabove described at a cost not to exceed \$658,600; and that the plan of financing is the issuance of serial bonds in the amount of \$177,000, said amount to be offset by the receipt of any funds from the United States of America, the State of New York, the County of Genesee and/or local funds, including but not limited to, a USDA Rural Development Agency grant of \$481,600 and the balance of the costs will be assessed by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District, which the Town Board shall determine to be especially benefited by said District, so much upon and from each as shall be in just proportion to the amount of benefit which the District shall confer upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable; and

WHEREAS, permission of the State Comptroller was required with respect to the establishment of the District because the estimated cost of the District to the Typical Property (as defined by Town Law) is above the Average Estimated Cost to the Typical Properties for the establishment of similar types of Districts, as computed by the State Comptroller, and the Town submitted an application to the office of the State Comptroller, Department of Audit and Control; and

WHEREAS, the Office of the State Comptroller, Department of Audit and Control reviewed said application and on September 11, 2008, the State Comptroller issued an order that such application of the Town Board of the Town of Batavia for permission to establish the Rose Road Water District was approved and permitted the establishment of said District in accordance with the description referred to in a resolution of April 23, 2008, at a cost not to exceed \$658,600;

WHEREAS, on August 29, 2008, the Town received another letter from the USDA Rural Development Agency stating that the current estimate of the funding package would decrease the Rural Development Grant amount to \$432,600 and would increase the Rural Development loan amount to \$226,000; and

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WHEREAS, the interest rate for the revised Rural Development loan amount was 2.7% for 38 years, and thereby the total estimated annual cost of a typical property user in the proposed District would be \$742.56 per year, which is substantially the same amount as previously cited in the Resolution and Order for Establishment; and

WHEREAS, on November 5, 2008 the Town Board adopted an order calling for a supplemental public hearing for the purpose of advising any interested citizens and members of the Rose Road Water District of the proposed changes in the total amount estimated to be financed, with the total project cost to stay the same of not to exceed \$658,600, and with no substantial change in the estimated annual amount to be paid by the Water District residents; and

WHEREAS, the Town Board held a supplemental public hearing on November 19, 2008 at 6:45 o'clock p.m. to advise any interested citizens and members of the Rose Road Water District of the proposed changes in the total amount estimated to be financed, with the total project cost to stay the same of not to exceed \$658,600, and with no substantial change in the estimated annual amount to be paid by the Water District residents; and

NOW, THEREFORE, BE IT

ORDERED, that the establishment of the District is hereby approved, in the Town of Batavia, to be known as the Rose Road Water District in the Town of Batavia, situate wholly outside of any incorporated village or city, and bounded and described as follows:

TOWN OF BATAVIA

ROSE ROAD WATER DISTRICT

All that tract or parcel of land situate in the Town of Batavia, County of Genesee, State of New York, being described as follows:

Beginning at a point at the westerly line of the existing Town of Batavia Water District No. 3, said point being the northeasterly corner of tax account number 15-1-58.1; thence,

1. Southerly, along the easterly line of tax account 15-1-58.1, a distance of 1,343 feet, more or less, to the centerline of Rose Road (49.5 feet wide right-of-way); thence,
2. Easterly, along the centerline of Rose Road, a distance of 421 feet, more or less, to a westerly corner of the existing Town of Batavia Water District No. 3; thence,
3. Southerly, through Rose Road and along the easterly line of tax account number 18-1-1.2, a distance of 555 feet, more or less, to the northwesterly corner of tax account number 18-1-3.114; thence,
4. Easterly, along the northerly line of tax account number 18-1-3.114, a distance of 2,171 feet, more or less, to the northeasterly corner thereof; thence,
5. Southerly, along the easterly line of the tax account number 18-1-3.114, a distance of 2,471 feet, more or less, to the southeasterly corner thereof; thence,
6. Westerly, along the southerly lines of tax account numbers 18-1-3.114, 18-1-1.1, 17-1-8.1, and 17-1-7.1, a distance of 5,532 feet, more or less, to a southeasterly corner of tax account number 17-1-7.1; thence,

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7. Southerly, along the easterly line of tax account number 17-1-7.1, a distance of 424 feet, more or less; thence,
8. Westerly, along the southerly line of the aforementioned tax account number, a distance of 1,029 feet, more or less, to the southwesterly corner thereof; thence,
9. Northerly, along the westerly line of the aforementioned tax account number, a distance of 1,655 feet, more or less, to the southeasterly corner of tax account number 17-1-6; thence,
10. Westerly, along the southerly lines of tax account numbers 17-1-6, 17-1-5.12, 17-1-5.112, 17-1-36, 17-1-37, 17-1-5.114, through the right-of-way of Wortendyke Road (49.5 feet wide right-of-way) a distance of 2,483 feet, more or less, to a westerly right-of-way of Wortendyke Road and northeasterly corner of tax account number 17-1-34.122; thence,
11. Southerly, along the westerly line of Wortendyke Road, a distance of 124 feet, more of less, to the southeasterly corner thereof; thence,
12. Westerly, along the southerly line of the aforementioned tax account number, a distance of 745 feet, more or less, to the northeasterly corner of tax account number, 17-1-3; thence,
13. Southerly, along the easterly line of tax account number 17-1-3, a distance of 526 feet, more of less, to a southerly corner thereof; thence,
14. Westerly, along a southerly line of the aforementioned tax account number, a distance of 630 feet, more or less, to a property corner thereof; thence,
15. Southerly, along an easterly line of the aforementioned tax account number, a distance of 663 feet, more or less, to the southeasterly corner thereof; thence,
16. Westerly, along the southerly line of the aforementioned tax account number, a distance of 1,001 feet, more or less, to a southwesterly corner thereof; thence,
17. Northerly, along a westerly line of the aforementioned tax account number, a distance of 654 feet, more or less, to a northwesterly corner thereof; thence,
18. Westerly, along a southerly line of the aforementioned tax account number, a distance of 168 feet, more or less, to a northwesterly corner thereof; thence,
19. Northeasterly, along a westerly line of the aforementioned tax account number, a distance of 219 feet, more or less, to a northwesterly corner thereof; thence,
20. Easterly, along the northerly line of the aforementioned tax account number, a distance of 18 feet, more or less to the southwesterly corner of tax account number 17-1-34.122; thence,
21. Northerly, along the westerly line of tax account number, 17-1-34.122, a distance of 116 feet more or less, to the northwesterly corner thereof; thence,
22. Westerly, along a southerly line of tax account number 17-1-3, a distance of 1,547 feet, more or less, to a southwesterly corner thereof; thence,
23. Northerly, along the westerly line of tax account numbers 17-1-3, 14-1-33, and through the Rose Road right-of-way, a distance of 2,027 feet, more or less, to the northwesterly corner of tax account number 14-1-33; thence,
24. Easterly, along the northerly line of the tax account number 14-1-33, a distance of 699 feet, more or less, to the southeasterly corner of tax account number 14-1-25.1; thence,
25. Northerly, along the easterly line of tax account number 14-1-25.1, a distance of 198 feet, more or less, to the southwesterly corner of tax account number 14-1-28.112; thence,
26. Easterly, along the southerly line of tax account number 14-1-28.112, a distance of 1,346 feet, more or less, to the northeasterly corner of tax account number 14-1-32.12; thence,
27. Southerly, along an easterly line of tax account number 14-1-32.12, distance of 237 feet, more or less, to the southwesterly corner of tax account number 14-1-31; thence,

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28. Easterly, along the southerly line of tax account number 14-1-31, a distance of 630 feet, more or less, to the northeasterly corner of tax account number 14-1-32.2; thence,
29. Southerly, along the easterly line of tax account number 14-1-32.2, distance of 72 feet, more or less, to the northwesterly corner of tax account number 15-1-67.2; thence,
30. Easterly, along the northerly line of the tax account numbers 15-1-67.2, 15-1-67.1, 15-1-65, 15-1-64.2, through the right-of-way of Wortendyke Road, a distance of 1,427 feet, more or less, to a point of the centerline of Wortendyke Road; thence,
31. Northerly, along the centerline of Wortendyke Road, a distance of 360 feet, more or less, to a point being the westerly extension of the northerly line of tax account number 15-1-62; thence,
32. Easterly, through the Wortendyke Road right-of-way continuing along the northerly line of tax account number 15-1-62 a distance of 2,375 feet, more or less, to the northeasterly corner thereof; thence,
33. Northerly, along the westerly line of tax account number 15-1-61.1, a distance of 873 feet, more or less, to the northwesterly corner of said tax account number thereof; thence,
34. Easterly, along the northerly lines of tax account numbers 15-1-61.1 and 15-1-60.1, a distance of 2,668 feet, more or less, to the northeasterly corner of tax account number 15-1-60.1; thence,
35. Northerly, along the westerly line of tax account number 15-1-59, a distance of 1,218 feet, more or less, to the northwesterly corner of tax account number 15-1-59; thence,
36. Easterly, along the northerly lines of tax account numbers 15-1-59 and 15-1-58.1, a distance of 1,286 feet, more or less, to the point of beginning

All as shown on a map prepared by Clark Patterson Lee entitled, "Rose Road Water District – Proposed Water District", dated 01/28/08.

Town of Batavia Rose Road Water District, as described above contains approximately 694.6 acres of land.

AND BE IT FURTHER:

ORDERED, that the Rose Road Water District hereinabove referred to shall be constructed as set forth in the Order Calling the Public Hearing dated (March 19, 2008), the resolution (adopted on April 23, 2008) and the supplemental public hearing (held on November 19, 2008), at a cost not to exceed \$658,600, and the plan of financing is the issuance of serial bonds in the amount of \$658,600, said amount to be offset by the receipt of any funds from the United States of America, the State of New York, the County of Genesee and/or local funds, including but not limited to, a USDA Rural Development Agency grant of \$432,600, and the balance of the costs will be assessed by the assessment, levy and collection of the special assessments from the several lots and parcels of land within the District, which the Town Board shall determine to be especially benefited by said District, so much upon and from each as shall be in just proportion to the amount of benefit which the District shall confer 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

ORDERED, that within ten (10) days after adoption of this Order, the Town Clerk shall record with the Clerk of the County of Genesee and file with the Department of Audit and Control in Albany, New York copies of this Order, certified by said Town Clerk

Dated: November 19, 2008

TOWN BOARD OF THE

**NOVEMBER 19, 2008
REGULAR TOWN BOARD MEETING**

TOWN OF BATAVIA

The question of the adoption of the foregoing order was duly put to vote on a roll call, which resulted as follows:

AYES: Councilman Gerace
Deputy Supervisor Underhill
Councilwoman Michalak
Councilman Lang
Supervisor Post

NOES:

ABSENT:

The foregoing order was thereupon declared duly adopted.

RESOLUTION NO. 184:

Councilman Lang offered the following:

**TOWN OF BATAVIA,
GENESEE COUNTY, NEW YORK**

EXTRACT OF MINUTES

A meeting of the Town Board of the Town of Batavia, Genesee County, New York was convened in public session at the Town Hall located at 3833 West Main Street Road, in the Town of Batavia, New York on November 19, 2008, at 7:00 o'clock p.m, local time.

The meeting was called to order by the Town Supervisor and, upon roll being called, the following members were:

Councilpersons: Gregory H. Post, Supervisor
Daniel Underhill, Deputy Supervisor
Alfred Lang, Councilman
Patti Michalak, Councilwoman
John Gerace, Councilman

There were absent:

Also present: Teresa M. Morasco, Town Clerk

* * *

**NOVEMBER 19, 2008
REGULAR TOWN BOARD MEETING**

The following resolution was offered by Councilman Lang, seconded by Councilman Gerace, to wit;

A BOND RESOLUTION DATED NOVEMBER 19, 2008, OF THE TOWN OF BATAVIA, GENESEE COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING THE ESTABLISHMENT OF THE ROSE ROAD WATER DISTRICT AND THE CONSTRUCTION OF IMPROVEMENTS THEREIN, IN AN AMOUNT NOT EXCEED \$658,600 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$658,600, OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED BY THE TOWN, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

WHEREAS, the Town Board of the Town of Batavia, Genesee County, New York (the "Town"), pursuant to Article 12 of the Town Law, created a District designated and known as the "Rose Road Water District" (the "District"); and

WHEREAS, the Town Board desires to undertake a project (the "Project") consisting of the construction of the infrastructure for the District and the undertaking of a capital project in the District; and

WHEREAS, by Resolutions the Town Board took the following actions with respect to the Project:(a) prepared maps, plans and boundaries for the District and the Project, (b) held public hearings with respect to the Project, (c) determined that the Project would not have a significant effect on the environment under Article 8 of the Environmental Conservation Law, (d) determined that the requirements of Article 12 of the Town Law had been satisfied with respect to the Project and further determined to undertake the Project and (e) received permission to establish the District from the New York State Comptroller; and

WHEREAS, the Town Board desires to issue obligations of the Town to finance a portion of the costs of the Project;

BE IT RESOLVED, by the Town Board (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1: The specific purpose (hereinafter referred to as "purpose") to be financed pursuant to this resolution is a project to provide a safe and reliable portable water supply and fire protection to certain residences in the Rose Road Water District. The overall project will consist of the construction and installation of approximately 11,300 linear feet of eight inch water main running along a portion of Rose Road starting on Rose Road at the existing Town of Batavia Water District No. 3 (Consolidated Water District), and thence running westerly along Rose Road to the west boundary of 3170 Rose Road, Tax Map Parcel No. 17-1-3; together with all related right-of-way costs, site work and other ancillary work,

NOVEMBER 19, 2008
REGULAR TOWN BOARD MEETING

including hydrants, valves, apparatus, preliminary costs and other improvements and costs incidental thereto for the foregoing purpose. The maximum cost of said purpose will not exceed \$658,600.

SECTION 2: The Town Board plans to finance the maximum estimated cost of said purpose by the issuance of serial bonds in an amount not to exceed \$658,600 of said Town, said amount to be offset by the receipt of any federal, state, county and/or local funds, including but not limited to, a USDA Rural Development Agency grant of \$432,600, and the balance of the estimated cost of said purpose shall be financed by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District. The cost of such improvement is to be paid by assessments upon parcels of benefited property in an areas less than the area of the Town.

SECTION 3: It is hereby determined that said purpose is an object or purpose described in subdivision 1 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 40 years.

SECTION 4: Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 5: It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 6: The faith and credit of said Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. Should the assessments upon benefited real property be insufficient to pay the principal of and interest on such bonds, there shall annually be levied on all the taxable real property of said Town a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

SECTION 7: Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town.

SECTION 8: The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The Town then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the date hereof) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration of the Town's "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

SECTION 9: The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

NOVEMBER 19, 2008
REGULAR TOWN BOARD MEETING

SECTION 10: The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 11: The Town has complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under the State Environmental Quality Review Act is necessary.

SECTION 12: The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

37. Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or

The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and

an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or

Said obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 13: This resolution is effective immediately.

SECTION 14: The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in a newspaper having a general circulation in said Town and hereby designated as the official newspaper of said Town for such publication.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

AYES: Councilman Lang
Councilman Gerace
Deputy Supervisor Underhill
Councilman Lang
Supervisor Post

NOES:

ABSENT:

The foregoing order was thereupon declared duly adopted.

RESOLUTION NO. 185:

Deputy Supervisor Underhill offered the following:

TOWN OF BATAVIA
GENESEE COUNTY, NEW YORK

NOVEMBER 19, 2008
REGULAR TOWN BOARD MEETING

EXTRACT OF MINUTES

A meeting of the Town Board of the Town of Batavia, Genesee County, New York was convened in public session at the Town Hall located at 3833 West Main Street Road, in the Town of Batavia, New York on November 19, 2008, at 7:00 o'clock p.m., local time.

The meeting was called to order by the Town Supervisor and, upon roll being called, the following members were:

Councilpersons: Gregory H. Post, Supervisor
 Daniel Underhill, Deputy Supervisor
 Alfred Lang, Councilman
 Patti Michalak, Councilwoman
 John Gerace, Councilman

There were absent:

Also present: Teresa M. Morasco, Town Clerk

* * *

The following order was offered by Deputy Supervisor Underhill, seconded by Councilman Lang, to wit;

RESOLUTION NO. 185

A meeting of the Town Board of the Town of Batavia, in the County of Genesee, State of New York, was held at the Town Hall, in said Town, on November 19, 2008.

PRESENT:

Hon. Gregory H. Post, Supervisor
Hon. Daniel Underhill, Councilman
Hon. Alfred Lang, Councilman
Hon. Patti Michalak, Councilwoman
Hon. John Gerace, Councilman

In the Matter of the Establishment of the Alexander and Pike Roads Water District, in the Town of Batavia, in the County of Genesee, New York, pursuant to Article 12 of the Town Law.

NOVEMBER 19, 2008
REGULAR TOWN BOARD MEETING

FINAL ORDER ESTABLISHING THE
ALEXANDER AND PIKE ROADS WATER DISTRICT
NOVEMBER 19, 2008

WHEREAS, the Batavia Town Board (herein called “Town Board” and “Town”, respectively), in the County of Genesee, New York, has received a petition pursuant to Section 191 of the Town Law, for the establishment of the Alexander and Pike Roads Water District, which petition was 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, owners of taxable real property located in the proposed Alexander and Pike Roads 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 was accompanied by a map, plan and report, dated February 19, 2008, prepared by the Town Engineer, a competent engineer duly licensed by the State of New York, for the establishment of the Alexander and Pike Roads Water District, in the Town of Batavia (the “District”), which map, plan and report is on file at the office of the Town Clerk, and available for public inspection at said location; and

WHEREAS, said proposed improvements consist of a project to provide a safe and reliable portable water supply and fire protection to certain residences in the proposed Alexander and Pike Roads Water District. The overall project will consist of the construction and installation of approximately 5,300 linear feet of eight inch and approximately 9,530 linear feet of twelve inch water main starting at the existing Town of Batavia Water District No. 3 (Consolidated Water District), and then running south on Alexander Road to the Town of Batavia boundary line, and on Pike Road starting at the intersection of Alexander and Pike Road, then running westerly along Pike Road to the west boundary of 3731 Pike Road, Tax Map Parcel No. 18-1-56.112; together with all related right-of-way costs, site work and other ancillary work, including hydrants, valves, apparatus, preliminary costs and other improvements and costs incidental thereto (referred to herein as “water improvement”); the maximum amount proposed to be expended for the construction of such District estimated to be \$1,175,200; and

WHEREAS, pursuant to the Order duly adopted on March 19, 2008, the Town Board determined to proceed with the proposed establishment of the District and adopted an Order reciting a description of the boundaries of the District the improvements proposed, the maximum amount proposed to be expended for the construction of water improvements in connection with the establishment of the District, the proposed method of financing to be employed, the fact that a map, plan and report describing the same are on file in the Town Clerk’s office for public inspection and specifying April 16, 2008, at 6:55 o’clock p.m. (Prevailing Time) as the time when, and the Batavia Town Hall, located at 3833 West Main Street Road, in the Town, as the place where, the Town Board would meet to consider the proposed establishment of the District and to hear all persons interested in the subject thereof concerning the same, and for such other action on the part of the Town Board in relation thereto, as may be required by law; and

WHEREAS, following publication and posting of certified copies of said Order pursuant to Article 12 of the Town Law and after a public hearing duly held by the Town Board at the time and place herein referred to, the Town Board, by resolution duly adopted April 23, 2008, determined that the notice

NOVEMBER 19, 2008
REGULAR TOWN BOARD MEETING

of public hearing was published and posted as required by law and was otherwise sufficient, that all the property and property owners included within the proposed District were benefited thereby, that all the property and property owners benefited were included within the limits of the proposed District, that it was in the public interest to establish the District and approved the establishment of the District and the construction of water improvements in connection with the District as hereinabove described at a cost not to exceed \$1,175,200; and that the plan of financing is the issuance of serial bonds in the amount of \$696,000, said amount to be offset by the receipt of any funds from the United States of America, the State of New York, the County of Genesee and/or local funds, including but not limited to, a USDA Rural Development Agency grant of \$479,200 and the balance of the costs will be assessed by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District, which the Town Board shall determine to be especially benefited by said District, so much upon and from each as shall be in just proportion to the amount of benefit which the District shall confer upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable; and

WHEREAS, permission of the State Comptroller was required with respect to the establishment of the District because the estimated cost of the District to the Typical Property (as defined by Town Law) is above the Average Estimated Cost to the Typical Properties for the establishment of similar types of Districts, as computed by the State Comptroller, and the Town submitted an application to the office of the State Comptroller, Department of Audit and Control; and

WHEREAS, the Office of the State Comptroller, Department of Audit and Control reviewed said application and on September 11, 2008, the State Comptroller issued an order that such application of the Town Board of the Town of Batavia for permission to establish the Alexander and Pike Roads Water District was approved and permitted the establishment of said District in accordance with the description referred to in a resolution of April 23, 2008, at a cost not to exceed \$1,175,200;

WHEREAS, on August 29, 2008, the Town received another letter from the USDA Rural Development Agency stating that the current estimate of the funding package would decrease the Rural Development Grant amount to \$289,200 and would increase the Rural Development loan amount to \$886,000; and

WHEREAS, the interest rate for the revised Rural Development loan amount was 2.7% for 38 years, and thereby the total estimated annual cost of a typical property user in the proposed District would be \$731.52 per year, which is substantially the same amount as previously cited in the Resolution and Order for Establishment; and

WHEREAS, on November 5, 2008 the Town Board adopted an order calling for a supplemental public hearing on November 19, 2008 at 6:55 o'clock p.m. to advise any interested citizens and members of the Alexander and Pike Roads Water District of the proposed changes in the total amount estimated to be financed, with the total project cost to stay the same of not to exceed \$1,175,200.00, and with no substantial change in the estimated annual amount to be paid by the Water District residents; and

WHEREAS, the Town Board held a supplemental public hearing on November 19, 2008 at 6:55 o'clock p.m. to advise any interested citizens and members of the Alexander and Pike Roads Water District of the proposed changes in the total amount estimated to be financed, with the total project cost to stay the same of not to exceed \$1,175,200.00, and with no substantial change in the estimated annual amount to be paid by the Water District residents; and

**NOVEMBER 19, 2008
REGULAR TOWN BOARD MEETING**

NOW, THEREFORE, BE IT

ORDERED, that the establishment of the District is hereby approved, in the Town of Batavia, to be known as the Alexander and Pike Roads Water District in the Town of Batavia, situate wholly outside of any incorporated village or city, and bounded and described as follows:

TOWN OF BATAVIA

ALEXANDER AND PIKE ROAD WATER DISTRICT

All that tract or parcel of land situate in the Town of Batavia, County of Genesee, State of New York, being described as follows:

Beginning at a point at the westerly line of the existing Town of Batavia Water District No. 3, said point being the northeasterly corner of tax account number 12-1-63.12; thence,

38. Southerly, along the easterly lines of tax account numbers 18-1-13.1 and 18-1-79.1, a distance of 1,740 feet, more or less, to the southeasterly of tax account number 18-1-79.1; thence,
39. Easterly, along the northerly line of tax account number 18-1-20.21, a distance of 51 feet, more or less, to the northeasterly corner thereof; thence,
40. Southerly, along the easterly lines of tax account numbers 18-1-20.21, 18-1-23.1, 18-1-25.124, 19-1-48, 18-1-29, and 18-1-30.111, a distance of 6,328 feet, more or less, to the southeasterly corner of tax account number 18-1-18-1-30.111; thence,
41. Westerly, along the southerly line of tax account number 18-1-30.111, a distance of 933 feet, more or less, to the northeasterly corner of tax account number 18-1-31.1; thence,
42. Southerly, along the easterly line of tax account number 18-1-31.1, a distance of 661 feet, more or less, to the southeasterly corner thereof; thence,
43. Westerly, along the southerly lines of tax account numbers 18-1-31.1, 18-1-33, through the right-of-way of Alexander Road (66 feet wide right-of-way) , continuing along the southerly lines of tax account numbers 18-1-35.1, 18-1-36, and 18-1-37, a distance of 7,758 feet, more or less, to the southwesterly corner of tax account number 18-1-37; thence,
44. Northerly, along the westerly line of tax account number 18-1-37, a distance of 1,377 feet, more or less, to the northwesterly corner thereof; thence,
45. Easterly, along the northerly line of tax account number 18-1-37, a distance of 1,333 feet, more or less, to the southwesterly corner of tax account number 18-1-50.2; thence,
46. Northerly, along the westerly line of tax account number 18-1-50.2, through the Pike Road right-of-way (49.5 feet wide right-of-way) continuing along the westerly lines of tax account numbers 18-1-56.112 and 18-1-56.111, a distance of 2,590 feet, more or less, to the northwesterly corner of tax account number 18-1-56.111; thence,
47. Easterly, along the northerly lines of tax account numbers 18-1-56.111, 18-1-56.12, 18-1-67.112, and 18-1-67.113, a distance of 2,634 feet, more or less, to the southwesterly corner of tax account number 18-1-70; thence,
48. Northerly, along the westerly line of tax account numbers 18-1-70, 18-1-73, 18-1-74.1, and 18-1-76, a distance of 2,470 feet, more or less, to the northwesterly corner of tax account number 18-1-76; thence,
49. Southwesterly, along the southerly line of tax account number 18-1-81.2, a distance of 2,171 feet, more or less, to the southwesterly corner thereof; thence,

NOVEMBER 19, 2008
REGULAR TOWN BOARD MEETING

50. Northerly, along the westerly line of tax account number 18-1-81.2, a distance of 99 feet, more or less, to the northwesterly corner thereof; thence,
51. Northeasterly, along the northerly lines of tax account numbers 18-1-81.2 and 18-1-81.11, a distance of 5,121 feet, more or less, to an angle point along the northerly line of tax account number 18-1-81.11; thence,
52. Northeasterly, along the northerly line of tax account number 18-1-81.11, a distance of 71 feet, more or less, to an angle point thereof; thence,
53. Northeasterly, along the northerly line of tax account number 18-1-81.11, a distance of 338 feet, more or less, to an angle point thereof; thence,
54. Southeasterly, along the northerly line of tax account number 18-1-81.11, a distance of 99 feet, more or less, to an angle point thereof; thence,
55. Northeasterly, along the northerly line of tax account number 18-1-81.11 and continuing along a line through the right-of-way of Alexander Road, a distance of 2,049 feet, more or less, to the Alexander Road centerline; thence,
56. Southwesterly, along the Alexander Road centerline, a distance of 129 feet, more or less, to a point on the centerline being the westerly extension of the southerly line of tax account number 12-1-105; thence,
57. Easterly, along the northerly lines of tax account numbers 18-1-13.1, 18-1-79.1, and 18-1-63.12, a distance of 2,494 feet, more or less, to the point of beginning.

All as shown on a map prepared by Clark Patterson Lee entitled, "Alexander and Pike Road Water District – Proposed Water District", dated 01/28/08.

Town of Batavia Alexander and Pike Road Water District, as described above contains approximately 1,287.3 acres of land.

AND BE IT FURTHER:

ORDERED, that the Alexander and Pike Roads Water District hereinabove referred to shall be constructed as set forth in the Order Calling the Public Hearing dated (March 19, 2008), the resolution (adopted on April 23, 2008) and the supplemental public hearing (held on November 19, 2008), at a cost not to exceed \$1,175,200, and the plan of financing is the issuance of serial bonds in the amount of \$1,175,200, said amount to be offset by the receipt of any funds from the United States of America, the State of New York, the County of Genesee and/or local funds, including but not limited to, a USDA Rural Development Agency grant of \$289,200, and the balance of the costs will be assessed by the assessment, levy and collection of the special assessments from the several lots and parcels of land within the District, which the Town Board shall determine to be especially benefited by said District, so much upon and from each as shall be in just proportion to the amount of benefit which the District shall confer 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

ORDERED, that within ten (10) days after adoption of this Order, the Town Clerk shall record with the Clerk of the County of Genesee and file with the Department of Audit and Control in Albany, New York copies of this Order, certified by said Town Clerk

Dated: November 19, 2008

TOWN BOARD OF THE
TOWN OF BATAVIA

**NOVEMBER 19, 2008
REGULAR TOWN BOARD MEETING**

The question of the adoption of the foregoing order was duly put to vote on a roll call, which resulted as follows:

AYES: Deputy Supervisor Underhill
Councilman Lang
Councilwoman Michalak
Councilman Gerace
Supervisor Post

NOES:

ABSENT:

The foregoing order was thereupon declared duly adopted.

RESOLUTION NO. 186:

Supervisor Post offered the following:

**TOWN OF BATAVIA,
GENESEE COUNTY, NEW YORK**

EXTRACT OF MINUTES

A meeting of the Town Board of the Town of Batavia, Genesee County, New York was convened in public session at the Town Hall located at 3833 West Main Street Road, in the Town of Batavia, New York on November 19, 2008, at 7:00 o'clock p.m, local time.

The meeting was called to order by the Town Supervisor and, upon roll being called, the following members were:

Councilpersons: Gregory H. Post, Supervisor
Daniel Underhill, Deputy Supervisor
Alfred Lang, Councilman
Patti Michalak, Councilwoman
John Gerace, Councilman

There were absent:

Also present: Teresa M. Morasco, Town Clerk

* * *

The following resolution was offered by Supervisor Post, seconded by Councilman Gerace, to wit;

NOVEMBER 19, 2008
REGULAR TOWN BOARD MEETING

NOVEMBER 19, 2008
REGULAR TOWN BOARD MEETING

A BOND RESOLUTION DATED NOVEMBER 19, 2008, OF THE TOWN OF BATAVIA, GENESEE COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING THE ESTABLISHMENT OF THE ALEXANDER AND PIKE ROADS WATER DISTRICT AND THE CONSTRUCTION OF IMPROVEMENTS THEREIN, IN AN AMOUNT NOT EXCEED \$1,175,200 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,175,200, OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED BY THE TOWN, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

WHEREAS, the Town Board of the Town of Batavia, Genesee County, New York (the "Town"), pursuant to Article 12 of the Town Law, created a District designated and known as the "Alexander and Pike Roads Water District" (the "District"); and

WHEREAS, the Town Board desires to undertake a project (the "Project") consisting of the construction of the infrastructure for the District and the undertaking of a capital project in the District; and

WHEREAS, by Resolutions the Town Board took the following actions with respect to the Project:(a) prepared maps, plans and boundaries for the District and the Project, (b) held public hearings with respect to the Project, (c) determined that the Project would not have a significant effect on the environment under Article 8 of the Environmental Conservation Law, (d) determined that the requirements of Article 12 of the Town Law had been satisfied with respect to the Project and further determined to undertake the Project and (e) received permission to establish the District from the New York State Comptroller; and

WHEREAS, the Town Board desires to issue obligations of the Town to finance a portion of the costs of the Project;

BE IT RESOLVED, by the Town Board (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1: The specific purpose (hereinafter referred to as "purpose") to be financed pursuant to this resolution is a project to provide a safe and reliable portable water supply and fire protection to certain residences in the proposed Alexander and Pike Roads Water District. The overall project will consist of the construction and installation of approximately 5,300 linear feet of eight inch and approximately 9,530 linear feet of twelve inch water main starting at the existing Town of Batavia Water District No. 3 (Consolidated Water District), and then running south on Alexander Road to the Town of Batavia boundary line, and on Pike Road starting at the intersection of Alexander and Pike Road, then running westerly along Pike Road to the west boundary of 3731 Pike Road, Tax Map Parcel No.

NOVEMBER 19, 2008
REGULAR TOWN BOARD MEETING

18-1-56.112; together with all related right-of-way costs, site work and other ancillary work, including hydrants, valves, apparatus, preliminary costs and other improvements and costs incidental thereto for the foregoing purpose. The maximum cost of said purpose will not exceed \$1,175,200.

SECTION 2: The Town Board plans to finance the maximum estimated cost of said purpose by the issuance of serial bonds in an amount not to exceed \$1,175,200 of said Town, said amount to be offset by the receipt of any federal, state, county and/or local funds, including but not limited to, a USDA Rural Development Agency grant of \$289,200, and the balance of the estimated cost of said purpose shall be financed by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District. The cost of such improvement is to be paid by assessments upon parcels of benefited property in an areas less than the area of the Town.

SECTION 3: It is hereby determined that said purpose is an object or purpose described in subdivision 1 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 40 years.

SECTION 4: Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 5: It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 6: The faith and credit of said Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. Should the assessments upon benefited real property be insufficient to pay the principal of and interest on such bonds, there shall annually be levied on all the taxable real property of said Town a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

SECTION 7: Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town.

SECTION 8: The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The Town then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the date hereof) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration of the Town's "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

SECTION 9: The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation

NOVEMBER 19, 2008
REGULAR TOWN BOARD MEETING

thereof as “qualified tax-exempt bonds” in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 10: The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 11: The Town has complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act (“SEQRA”), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under the State Environmental Quality Review Act is necessary.

SECTION 12: The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

58. Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or

The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and

an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or

Said obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 13: This resolution is effective immediately.

SECTION 14: The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in a newspaper having a general circulation in said Town and hereby designated as the official newspaper of said Town for such publication.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

AYES: Supervisor Post
Councilman Gerace
Councilman Lang
Deputy Supervisor Underhill
Councilwoman Michalak

NOES:

ABSENT:

The foregoing resolution was thereupon declared duly adopted.

RESOLUTION NO. 187:

Councilwoman Michalak offered the following:

TOWN INSURANCE AWARD

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WHEREAS, as of November 27, 2001 the Batavia Town Board retained New York Municipal Insurance Reciprocal to provide the Town with insurance coverage; and

WHEREAS, the insurance premium for 2009 (November 27, 2008 through November 27, 2009) has been quoted at forty-two thousand, seven hundred, ninety-nine dollars and four cents (\$42,799.04/ attached).

RESOLVED, the Batavia Town Board hereby retains New York Municipal Insurance Reciprocal to provide insurance coverage for the Town in the amount of forty-two thousand, seven hundred, ninety-nine dollars and four cents (\$42,799.04).

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute any documents necessary for the award.

Offered by: Councilwoman Michalak

Second by: Councilman Lang

Ayes: Michalak, Lang, Gerace, Underhill, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 188:

Councilman Gerace offered the following:

EXCESS EMPLOYER'S LIABILITY INSURANCE

RESOLVED, the Batavia Town Board hereby retains McManus-Peard-Gesl, Inc. to provide the Town's Excess Employer's Liability Insurance at a cost of one thousand, one hundred, eleven dollars, (\$1,111.00).

Second by: Councilwoman Michalak

Ayes: Gerace, Michalak, Lang, Underhill, Post

APPROVED by unanimous vote

RESOLUTION NO. 189 :

Councilman Lang offered the following:

GOVERNMENT CRIME POLICY INSURANCE

RESOLVED, the Batavia Town Board hereby retains McManus-Peard-Gesl, Inc. to provide the Town with Government Crime Policy Insurance at a cost of \$3,038.00. This includes Employee Theft- limit per occurrence, \$100,000.00, at a cost of \$1,174, Forgery or Alteration, limit per occurrence, \$25,000, at a cost of \$142.00, Inside the Premises, Theft of Money and Securities, limit per occurrence, \$25,000.00, at a cost of \$77.00 and Outside the Premises, limit per occurrence, \$25,000.00, at a cost of \$21.00. The Town Clerk/Tax Collector and Deputy Town Clerk/Deputy Tax Collector; limit per occurrence, \$1,000,000.00, at a cost of \$500.00 and limit of \$125,000.00 per occurrence, at a cost of \$481.00 for two (2) Town Justices, two (2) Court Clerks; and (1) Bookkeeper; Computer Fraud- limit per

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occurrence, \$100,000.00, at a cost of \$175.00, Funds Transfer Fraud, limit per occurrence, \$100,000, at a cost of \$117.00, and the Secretary to the Supervisor, limit per occurrence, \$1,000,000.00, at a cost of \$351.00.
and be it

FURTHER RESOLVED, the Batavia Town Board hereby directs the Tax Collector to remit to the Genesee County Treasurer its taxes in a timely manner before they exceed \$1,000,000.00 at any given time. This procedure of collecting taxes has been requested by the County Treasurer.

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

RESOLUTION NO. 190:

Deputy Supervisor Underhill offered the following:

**RESOLUTION TO ACCEPT DEDICATION OF EDGEWOOD DRIVE EXTENSTION
IN THE McWETHY SUBDIVISION**

WHEREAS, the DMV Corporation, a domestic corporation with its principal place of business located at 4022 South Main Street Road, Batavia, New York 14020, has after approval of the Town of Batavia Planning Board filed a Subdivision Map in the Genesee County Clerk's Office, known as the McWethy Subdivision, and

WHEREAS, it was contemplated in this approval that the development of Meadowbrook Estates would take place in phases, and

WHEREAS, the Town of Batavia has previously accepted dedication of several roads in previously developed phases of the Subdivision, and

WHEREAS, the DMV Corporation has requested dedication of the Edgewood Drive Extension in Phase 11 of the Subdivision Plan, and provided a proposed Quit Claim Deed for this roadway area, and

WHEREAS, the Town of Batavia Highway Superintendent has made a recommendation to the Batavia Town Board to accept dedication of Edgewood Drive Extension.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York, that it hereby accepts dedication of Edgewood Drive Extension as more fully described in a Quit Claim Deed from DVM Corporation to the Town of Batavia, a copy of which is annexed to and made part of the Town Board Minutes, and

BE IT FURTHER RESOLVED that the Town Supervisor is authorized and directed to execute all documents necessary to record this Quit Claim Deed in the Genesee County Clerk's Office, and the Town Clerk is authorized and directed to complete this recording process.

Second by: Councilman Lang

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

Abstract No. 11-2008: Motion Councilman Lang, second Deputy Supervisor Underhill to authorize the Supervisor to pay the following vouchers:

General	\$ 320,281.62
Highway	26,096.35
Sewer No. 1	50,772.98
Sewer No. 2	30,212.01
Water	149,205.01
Putnam/Shepard	67.03
Alexander/Pike	37,908.84
Rose	<u>21,342.97</u>
TOTAL	\$635,886.81

Check numbers 13158 thru 13245, ACH \$43.77
Ayes: Lang, Underhill, Michalak, Gerace, Post
MOTION CARRIED by unanimous vote (5-0)

DEPARTMENT REPORTS:

Building Inspector reported on the following:

Veteran's Memorial Drive Projects- The small projects on VMD are wrapping up.

Kentucky Fried Chicken- Is moving along and is planning on opening December 17.

Home Permits- Recently issued two new home permits, each worth one half million dollars.

Building & Development has been very steady.

Councilman Gerace asked if there are occupants yet for the out buildings in front of Target. The Building Inspector informed that plans are being reviewed for an AT&T Store and a Game Stop Store to occupy the buildings.

Supervisor's Report:

Banking, Lending & Economic Impact- The local banking and lending has not been restricted. The investment rates he has been negotiating with the bank are stable and the Town has not seen any slow down in Commercial Development. Our community has not suffered like others.

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 1.98%.

GAM- meeting is tomorrow at the Byron Hotel. Elba is hosting the meeting.

COMMUNICATIONS:

The Town Clerk reported on the following:

October Town Clerk monthly report collected a total of \$11,820.51 remitted \$9,515.37 to the Supervisor for the Local Share.

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Liquor License Renewal- Received notice from Mazur Enterprises, Inc, DBA Johnny's Bar that they have made application to NYS to renew their liquor license.

Happy Thanksgiving!!

COMMITTEE REPORTS:

Time Warner- Councilwoman Michalak reported in regards to the petition that was filed, Time Warner Contractors are reviewing the Batavia-Stafford Townline Road area for possibly expanding the cable service area.

The Supervisor wished everyone a Happy, Safe Thanksgiving!!

The Supervisor will be calling a Special Meeting to schedule a Public Hearing for the Fire Protection Contract.

ADJOURNMENT:

Motion Deputy Supervisor Underhill, second Councilwoman Michalak to adjourn the Regular Town Board Meeting at 8:10 P.M.

MOTION CARRIED by unanimous vote (5-0)

Respectfully submitted,

Teresa M. Morasco
Town Clerk