

JANUARY 7, 2009
ORGANIZATIONAL MEETING

Town Hall

7:00 P.M.

Alfred Lang, Councilman 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
Kathy Jasinski, Planning Board Chair
Sharon White, Planning Board Secretary
Roger Muehlig, Daily News Reporter

The Supervisor called the meeting to order at 7:05 P.M.

APPOINTMENTS:

Supervisor made the following appointments:

Deputy Supervisor-Underhill
Bookkeeper-Marcy Crandall
Historian-Gale Conn-Wright
Deputy Historian- Barbara Toal

COMMITTEE APPOINTMENTS:

Supervisor made the following appointments to the various committees:

Audit: Deputy Supervisor Underhill, Councilman Lang, Councilwoman Michalak, Councilman Gerace
Highway: Deputy Supervisor Underhill, Supervisor Post, Highway Superintendent Cook
Water/Sewer: Councilman Lang, Town Engineer Steve Mountain, Supervisor Post
Buildings & Grounds: Councilman Gerace, Highway Superintendent Cook, Supervisor Post, Town Engineer Steve Mountain
Parks & Recreation: Councilman Gerace, Councilwoman Michalak, Town Engineer Steve Mountain
Video: Councilwoman Michalak
Fire: Deputy Supervisor Underhill, Supervisor Post
Court: Councilman Lang, Supervisor Post
Housing Initiatives: Councilwoman Michalak
Transfer Station: Councilman Lang, Highway Superintendent Cook

The Town Clerk read the information on the New York State Association of Towns Annual Meeting which will be held February 15 through February 18, 2009 in New York City.

RESOLUTION NO. 1:

Councilman Lang offered the following:

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GENERAL ORGANIZATIONAL RESOLUTION

RESOLVED, that the following appointments be and are hereby made for the one year term beginning January 1, 2009 and ending December 31, 2009:

OFFICE/DESIGNATION	APPOINTEE
Landfill Coordinator.....	Rodney Cook
Registrar of Vital Statistics.....	Teressa M. Morasco
Water/Sewer Billing Clerk.....	Sandra Baubie

and be it further

RESOLVED, that the following rates, hours, schedules, and conditions be and hereby are established for the one year term beginning January 1, 2009 and ending December 31, 2009;

- a. Mileage reimbursement rate for the use of a private vehicle in the conduct of official Town business shall be \$.550 per mile.
- b. Personal Development expenses for Town officers and employees is hereby authorized to \$1,000.00 per year; each such personal development expense shall require Town Board approval, amounts in excess must be approved by the Town Board. All meals per day shall not exceed \$40.00.
- c. One Employee is hereby authorized to \$1,800.00 to participate in Leadership Genesee, requiring Town Board approval.
- d. The schedule of Regular/Official meeting of the Batavia Town Board shall be the third (3rd) Wednesday of each month, beginning at 7:00 o'clock p.m. and such regular meetings shall be held at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York.
- e. The Town Highway Superintendent is hereby authorized to make purchases under the Genesee County Contract.
- f. Office hours at the Town Hall are hereby set at 8:30 a.m. until 4:30 p.m., Monday, Tuesday, Thursday, and Friday, Wednesday, 8:30 a.m. until 7:00 p.m., excepting recognized holidays.
- g. The Daily News (Batavia) is hereby designated as the Town's official newspaper.

Second by: Deputy Supervisor Underhill

Ayes: Lang, Underhill, Michalak, Gerace, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 2:

Deputy Supervisor Underhill offered the following:

ADOPTION OF SALARIES FOR 2009

RESOLVED, the Batavia Town Board hereby adopts the following salaries for 2009

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ELECTED

Supervisor	\$30,000.00
Deputy Supervisor	\$15,000.00
Councilman (3)	\$10,000.00
Town Clerk/Tax Collector	\$43,734.00
Highway Superintendent	\$58,861.00
Town Justice (2)	\$21,120.00

APPOINTED

Assessor	\$51,912.00
Secretary to the Supervisor	\$18.50 per hour
Engineer	\$56.65 per hour
Supervisor's Bookkeeper	\$13.20 per hour
Court Clerks (2)	\$15,606.00
Court Security	\$18.00 per hour
Deputy Town Clerk/Tax Collector	\$16.35 per hour
Water/Sewer Clerk	\$16.35 per hour
Registrar of Vital Statistics	\$677.00
Historian	\$1000.00
Water/Sewer Foreman	\$8476.00
Sanitary Landfill Coordinator	\$2348.00
Superfund Landfill Coordinator	\$2348.00
Building Inspector	\$30.00 per hour
Building Inspector-Deputy	\$18.50 per hour
Planning Board Chairman	\$5200.00
Planning Board Secretary	\$125.00 per meeting
Planning Board Members (7)	\$75.00 per meeting
Zoning Board of Appeals Members (4)	\$50.00 per meeting
Zoning Board Chairman	\$1320.00
Zoning Board Secretary	\$75.00 per meeting
Water/Sewer Maintenance Employee	\$19.51 per hour
Sr. Wtr/Sewer Maintenance Employee	\$19.73 per hour
Highway Employees (MEO)	\$19.51 per hour
Highway Mechanic	\$19.73 per hour
Full Time Heavy Equipment Operator	\$19.73 per hour
Full Time Laborer	\$10.71 per hour
Part Time Clerk-Typist	\$9.00 to \$13.20per hr.
Part Time Inventory Clerk/Indexing Clerk	\$9.00 to \$12.36per hr.
Highway Employees Part Time	\$10.71 per hour
Transfer Station Attendant	\$13.20 per hour
Highway Clerk/Typist	\$13.20 per hour
Part Time Assessment Clerk	\$15.38 per hour

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

RESOLUTION NO. 3:

Supervisor Post offered the following:

**RESOLUTION ESTABLISHING WORKDAY FOR
ELECTED AND APPOINTED OFFICIALS**

RESOLVED, the Batavia Town Board hereby establishes the following as a standard workday for elected and appointed officials for the purpose of determining days worked reportable to the New York State And Local Employees' Retirement System:

ELECTED OFFICIALS

Supervisor
Deputy Supervisor
Councilperson
Town Justice

Five day work week, six (6) hour day.

Town Clerk/Tax Collector
Superintendent of Highways

Five day work week, eight (8) hour day.

APPOINTED OFFICIALS

Members of Board of Zoning Appeals
Members of Planning Board
Town Engineer
Secretary to Supervisor
Clerk-Typist
Financial Clerk-Typist
Clerk-Stenographer
Court Officer
Justice Clerk

Five day work week, six (6) hour day.

Deputy Town Clerk
Water/Sewer Billing Clerk
Building Inspector
Assessor

Five day work week, eight (8) hour day.

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Second by: Councilman Gerace

Ayes: Post, Gerace, Lang, Underhill, Michalak

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 4:

Councilwoman Michalak offered the following:

ESTABLISHING RULES OF PROCEDURE
OF THE BATAVIA TOWN BOARD FOR 2009

RESOLVED, that the Batavia Town Board hereby establishes and adopts the following Rules of Procedure for the year 2009:

- 1.) **RULES OF ORDER:** The conduct of meetings of the Batavia Town Board shall be governed by the provisions of Robert's Rules of Order, with the following exceptions (1.) all votes of the Batavia Town Board shall be oral, and the names of all Town Board members present and their votes shall be recorded and entered into the official minutes by the Town Clerk, (2.) in other instances where Roberts Rules contradicts Town Law, Town Law will prevail.
- 2.) **TIMELY DISTRIBUTION:** Those items requiring the attention of the Town Board, as well as those items necessary to the conduct of regular meetings (i.e., agendas, minutes of previous meetings, prepared resolutions, contracts) should be available to Town Board members not later than the close of business on the Friday prior to the meeting at which action is scheduled. The Board will not act on such items (received later than described), and action on items received untimely by Board Members will be deferred to the next regularly scheduled Town Board meeting. To accommodate unforeseen circumstances, however, this rule may be suspended by an affirmative majority vote of the Town Board.
- 3.) **PUBLIC PARTICIPATION:** The responsible and orderly participation of the public (i.e., the audience actually present) at official meetings of the Batavia Town Board shall be encouraged and shall be permitted according to the Rules for Public Participation as may be adopted by resolution of the Town Board.
- 4.) **PUT THE QUESTIONS:** A Town Board Member, by motion may request, "that a question be now put to vote". A motion to "put the question" is not debatable or subject to amendments. The main question shall be on the passage of the matter under consideration, but when amendments are pending the question shall first be taken upon amendments in there order. A motion to "put the question" shall be seconded and passed by a roll call of an affirmative majority vote of the Town Board.
- 5.) **OFFICIAL MINUTES:** The Town Clerk in accordance with Town Law Section 30 (1) "shall keep a complete and accurate record of the proceedings of each meeting", but it is not necessary to keep a record of the proceedings verbatim. The Town Clerk's function in taking the minutes is purely ministerial and he/she has no discretion to include in the minutes only those discussions,

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which he/she thinks are important. Therefore all discussion and proceedings, unless they fall under a specific statutory requirement, will be recorded referencing the main points only.

- 6.) **AUDIT:** An Audit Committee consisting of all four (4) Town Board Members shall be appointed by the Town Supervisor. Individual vouchers of the Abstract shall indicate the recommendation of the Town Supervisor for Audit Committee approval

Second by: Councilman Lang

Ayes: Michalak, Lang, Underhill, Gerace, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 5:

Councilman Gerace offered the following:

POLICY CONCERNING PUBLIC PARTICIPATION AT TOWN BOARD MEETINGS

WHEREAS, the Batavia Town Board is interested in and is receptive to the genuine concerns and sincere expressions of all Town residents.

RESOLVED, the Supervisor will provide for an orderly and productive forum for public (audience) participation at all meetings of the Town Board, where such participation will be afforded to all residents equally.

RESOLVED, each speaker will be limited to five (5) minutes to speak , if necessary, at the time of Public Participation, however they or anyone else may also speak for five (5) minutes at the time a resolution is being discussed.

Second by: Deputy Supervisor Underhill

Ayes: Gerace, Underhill, Lang, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 6:

Councilman Lang offered the following:

DESIGNATION OF OFFICIAL DEPOSITORY

RESOLVED, that the Batavia Town Board hereby designates the following as official depository of the Town of Batavia for all operational accounts:

Five Star Bank – Batavia, New York

RESOLVED, that the Batavia Town Board hereby designates the following as official depository

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of the Town of Batavia for Investment purposes:

1. M&T Bank, Oakfield, New York
2. Five Star Bank, Batavia, New York
3. Key Bank, Batavia, New York
4. Bank of Castile, Batavia, New York
5. First Niagara Bank, Batavia, New York

Second by: Councilman Gerace

Ayes: Lang, Gerace, Underhill, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 7:

Deputy Supervisor Underhill offered the following:

APPROVAL OF OFFICIAL BLANKET UNDERTAKING

WHEREAS, Public Officer Law §11(2) provides that in lieu of any individual undertaking as required by law, the Town Board may approve the procurement of a blanket undertaking from any duly authorized corporate surety covering the officers, clerks and employees of the Town, and

WHEREAS, such blanket undertaking must be approved as to form, manner of execution and sufficiency of surety, by the Town Board and filed in the same manner as individual undertakings, and

WHEREAS, the section further provides that any such blanket undertaking entered into after January 1, 1978 must indemnify against losses caused by the failure of the officers or employees to faithfully perform their duties or by their fraudulent or dishonest acts.

NOW, THEREFORE, BE IT

RESOLVED, that the Supervisor is hereby authorized and directed to procure a blanket undertaking for all Town officers and employees, for the amount of one hundred thousand dollars (\$100,000.00) the cost of which the blanket undertaking shall become a Town charge; and be it further;

RESOLVED, that upon execution of the blanket undertaking, said undertaking shall immediately be filed in the Office of the Town Clerk of the Town of Batavia, New York.

Second by: Councilman Lang

Ayes: Underhill, Lang, Michalak, Gerace, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 8:

Supervisor Post offered the following:

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AUTHORIZATION OF PETTY CASH

RESOLVED, pursuant to Section 64-1a of the Town Law the Batavia Town Board hereby authorizes a petty cash fund for the Town Clerk/Tax Collector not to exceed two hundred (\$200.00) dollars.

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

RESOLUTION NO. 9:

Councilwoman Michalak offered the following:

**AUTHORIZATION FOR THE SUPERVISOR
TO PAY CERTAIN CLAIMS PRIOR TO AUDIT**

RESOLVED, pursuant to Section 118 of the Town Law the Batavia Town Board hereby authorizes the Supervisor to pay claims for public utilities, postage, freight and express charges, before they are audited.

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

RESOLUTION NO. 10:

Councilman Gerace offered the following:

AGREEMENT FOR THE EXPENDITURE OF HIGHWAY MONEYS

WHEREAS, the Town Board and Town Highway Superintendent should enter into an agreement relative to the expenditure of highway moneys for repair and improvement of Town Highways (Highway Law 284);

WHEREAS, the agreement must be prepared in duplicate, signed by a majority of the Town Board Members and the Highway Superintendent and filed with the Town Clerk and the Genesee County Highway Department.

RESOLVED, the Batavia Town Board hereby adopts the Town Highway Superintendent Agreement relative to the expenditure of Highway moneys for repair and improvement of Town Highways, as presented by the Town of Batavia Highway Superintendent.

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

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RESOLUTION NO. 11:

Councilman Lang offered the following:

APPLICATIONS FOR APPOINTMENTS IN THE TOWN OF BATAVIA

RESOLVED, in order to encourage the participation of all Town residents in the governmental and political process of the Town the following criteria will be used:

1. Appointments will be made based on qualifications.
2. Positions will be advertised in the Towns Official newspaper, The Daily News.
3. The attached application form will be the official form to be used for submission by the applicants to the Town Board for consideration.

Second by: Councilman Gerace

Ayes: Lang, Gerace, Underhill, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 12:

Deputy Supervisor Underhill offered the following:

AUTHORIZING APPOINTMENT OF ATTORNEY FOR THE TOWN

RESOLVED, that the Batavia Town Board hereby appoints Kevin Earl as attorney for the Town, for the one (1) year term beginning January 1, 2009 and ending December 31, 2009 one hundred, forty-five dollars (\$145.00) per hour (letter attached).

FURTHER RESOLVED that all legal services must first receive approval from the Town Board, however, to avoid any delay in legal proceedings of the Town, the Supervisor is hereby authorized to approve during the interim of monthly meetings, legal fees not to exceed two thousand dollars (\$2,000.00). The law firm of Harris Beach LLC, counsel for the Town of Batavia Landfill Superfund site and Hodgson Russ Attorneys LLP, counsel for Labor Negotiations are excluded from this resolution.

FURTHER RESOLVED, that all Town Board members have a legal right to confer with the Town Attorney at any time.

Second by: Councilman Lang

Ayes: Underhill, Lang, Michalak, Gerace, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 13:

Supervisor Post offered the following:

AUTHORIZING CONSULTING SERVICES

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RESOLVED, all consulting services must first receive approval from the Town Board, however to avoid the delay of development or any other project requiring consulting services in the Town, the Supervisor is hereby authorized to approve, during the interim of monthly meetings, engineering costs not to exceed two thousand dollars (\$2,000.00); and be it further

RESOLVED, all monthly invoices are required by the Town, and payment of any invoices received later than the first Wednesday before the regularly scheduled Town Board Meeting may be delayed to the following month. Consulting costs for each task performed must be itemized on separate invoices. Invoices must be sent to the Supervisor.

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

RESOLUTION NO. 14:

Councilwoman Michalak offered the following:

AUTHORIZING APPOINTMENT OF TOWN PROSECUTOR

RESOLVED, the Batavia Town Board hereby reappoints Theron E. Howard as Prosecutor for the Town of Batavia at the same cost as 2008, \$550.00 per week for a one (1) year term beginning January 1, 2009 and ending December 31, 2009. This will be an all-inclusive fee with no additional charges or deletions of any nature (letter attached).

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

RESOLUTION NO. 15:

Councilman Gerace offered the following:

VIDEO TAPING

WHEREAS, as the Batavia Town Board wishes that the Town Board meeting proceedings of the Town of Batavia be attainable and accessible to as many citizens as possible.

RESOLVED, the Batavia Town Board hereby authorizes the video taping of the Town Board Meetings to be later produced on Cable TV and that the tape recordings will be retained for a period of one (1) year.

RESOLVED, the Batavia Town Board authorizes the payment of forty-five dollars (\$45.00) per hour for taping the meetings.

FURTHER RESOLVED, the Public Hearings will be televised at the Town Boards discretion

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and will be decided at the time the Public Hearing is called.

Second by: Councilman Lang

Ayes: Gerace, Lang, Underhill, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 16:

Councilman Lang offered the following:

PAYROLL SCHEDULE FOR 2009

RESOLVED, the Batavia Town Board hereby adopts the payroll schedule for 2009 to be bi-weekly for all employees with the exception of the Town Planning Board Members, the Zoning Board of Appeals Members, and the Historian, which will be monthly.

Second by: Councilman Gerace

Ayes: Lang, Gerace, Underhill, Michalak, Post

APPROVED by unanimous vote(5-0)

RESOLUTION NO. 17:

Deputy Supervisor Underhill offered the following:

RESOLUTION ESTABLISHING HOLIDAY SCHEDULE

RESOLVED, the Batavia Town Board hereby establishes the following Holiday Schedule for 2009:

January 1, 2009 New Year's Day
February 16, 2009 President's Day
April 10, 2009 Good Friday
May 25, 2009 Memorial Day
July 3, 2009 Independence Day
September 7, 2009 Labor Day
October 12, 2009 Columbus Day
November 11, 2009 Veteran's Day
November 26, 2009 and November 27, 2009 Thanksgiving
December 24, 2009 Half Day - Closing at 12:00 P.M.
December 25, 2009 Christmas Day
December 31, 2009 Half Day - Closing at 12:00 P.M.

Second by: Councilman Lang

Ayes: Underhill, Lang, Michalak, Gerace, Post

APPROVED by unanimous vote (5-0)

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RESOLUTION DIED:

Supervisor Post offered the following:

APPOINTMENT TO PLANNING BOARD

WHEREAS, Donald Partridge, 4957 Ellicott Street Road, Batavia, New York, term on the Town of Batavia Planning Board expired on December 31, 2008.

RESOLVED, the Batavia Town Board hereby reappoints Donald Partridge to the Town of Batavia Planning Board commencing immediately and expiring December 31, 2015.

RESOLUTION DIED-LACK OF SECOND

RESOLUTION DEFEATED:

Supervisor Post offered the following:

APPOINTMENT TO PLANNING BOARD

WHEREAS, Donald Partridge, 4957 Ellicott Street Road, Batavia, New York, term on the Town of Batavia Planning Board expired on December 31, 2008.

RESOLVED, the Batavia Town Board hereby appoints John Riley to the Town of Batavia Planning Board commencing immediately and expiring December 31, 2015.

Second by: Councilman Lang

Ayes: Lang, Gerace

Nays: Post, Underhill Michalak

DEFEATED (2-ayes, 3-nays)

Discussion-Prior to the vote the Board discussed appointing Paul Marchese, who is currently serving as an alternate member on the Planning Board, as the regular member and appointing John Riley as the alternate.

RESOLUTION NO. 18:

Deputy Supervisor Underhill offered the following:

APPOINTMENT TO PLANNING BOARD

WHEREAS, Donald Partridge, 4957 Ellicott Street Road, Batavia, New York, term on the Town of Batavia Planning Board expired on December 31, 2008.

RESOLVED, the Batavia Town Board hereby appoints Paul Marchese to the Town of Batavia Planning Board commencing immediately and expiring December 31, 2015.

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Second by: Councilwoman Michalak
Ayes: Underhill, Michalak, Gerace, Lang,
Nays: Post
APPROVED (4-ayes, 1-nay)

RESOLUTION NO. 19:

Councilwoman Michalak offered the following:

APPOINTMENT TO ZONING BOARD OF APPEALS

WHEREAS, Peter Call, 7885 Lewiston Road, Batavia, New York, term on the Town of Batavia Zoning Board of Appeals expired on December 31, 2008.

RESOLVED, the Batavia Town Board hereby reappoints Peter Call to the Town of Batavia Zoning Board of Appeals commencing immediately and expiring December 31, 2013.

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

RESOLUTION NO. 20:

Councilman Gerace offered the following:

APPOINTMENT TO ZONING BOARD OF APPEALS-ALTERNATE MEMBER

WHEREAS, Jeannette Gallant, 5077 Clinton Street Road, #27, Batavia, New York, term on the Town of Batavia Zoning Board of Appeals as an Alternate Board Member expired on December 31, 2008.

RESOLVED, the Batavia Town Board hereby reappoints Jeannette Gallant to the Town of Batavia Zoning Board of Appeals as an alternate member commencing immediately and expiring December 31, 2010.

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

RESOLUTION NO. 21:

Councilman Lang offered the following:

APPOINTMENT TO BOARD OF ETHICS- 2009

WHEREAS, pursuant to the Code of the Town of Batavia, Chapter 11, a Board of Ethics was established in the Town of Batavia; and

WHEREAS, pursuant to the provisions, the Board of Ethics shall consist of three (3) members, a

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majority of such members shall be persons other than officers or employees of the Town of Batavia, with at least one member who is an elected or appointed officer or employee.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby appoints the following to serve as members of the Board of Ethics for 2009:

Linda Eick, 8880 Batavia-Stafford Townline Road

Wayne Townsend, State Street Road

Michael Cleveland, 2960 West Main Street Road, Town Assessor/Town Justice

Second by: Deputy Supervisor Underhill

Ayes: Lang, Underhill, Michalak, Gerace, Post

APPROVED by unanimous vote (5-0)

ADJOURNMENT:

Motion Councilman Gerace, second Councilwoman Michalak to adjourn the Organizational Meeting at 7:38 P.M.

Ayes: Gerace, Michalak, Lang, Underhill Post

MOTION CARRIED by unanimous vote (5-0)

Respectfully submitted,

Teressa M. Morasco
Town Clerk