

**DECEMBER 15, 2010  
REGULAR TOWN BOARD MEETING**

**Town Hall**

**7:00 P.M.**

John Gerace, 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

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

Moment of Silence for Zoning Board of Appeals Member Jeannette Gallant who passed out earlier in the week.

**November 17, 2010 Regular Town Board Meeting:** Motion Councilman Lang, second Councilwoman Michalak to approve the minutes as written.

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

**November 23, 2010 Special Town Board Meeting:** Motion Deputy Supervisor Underhill, second Councilman Lang to approve the minutes as written.

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

**RESOLUTION NO. 171:**

Councilman Lang offered the following:

**AUTHORIZING AGREEMENT FOR  
FIRE PROTECTION SERVICES FOR FISCAL YEAR 2011**

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

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

**WHEREAS**, due notice has been given of a Public Hearing held at the Town Hall of the Town of Batavia, New York on the 15<sup>th</sup> day of December, 2010, at 6:45 P.M. to consider such Contract, the notice

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thereof duly specifying the time and place of the Public Hearing as aforesaid and describing the time and place of the Public Hearing as aforesaid and describing in general terms and proposed Contract; and

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

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

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

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

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

**Discussion-** The Supervisor commended the Volunteer Firefighters from both the Town of Batavia and the East Pembroke Departments. They devote a number of hours of their time to the Department for training.

**TOWN OF BATAVIA FIRE DEPARTMENT AGREEMENT**

**THIS AGREEMENT** made this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between the **TOWN OF BATAVIA, NEW YORK**, (hereinafter designated as "Town") and the **TOWN OF BATAVIA FIRE DEPARTMENT, INC.** of Batavia, New York, (hereinafter designated as "Fire Department").

**WITNESSETH:**

**WHEREAS**, there has been duly established in the said Town of Batavia a fire protection district known as the "Town of Batavia Fire Protection District" as such' territory is more fully described in the Resolution establishing such District and duly adopted by the Town Board of the said Town of Batavia, Genesee County, New York on 24th day of March, 1948; and

**WHEREAS**, following a public hearing duly called, the said Town has duly authorized a Contract with the Fire Department for fire protection in said District upon the terms and conditions herein set forth; and

**WHEREAS**, this Agreement has also been duly authorized by the Directors and membership of

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the Fire Department, and the Fire Department has provided to the Town certified copies of Resolutions of approval of this Agreement by the Town of Batavia Fire Department Board of Directors and by its membership.

**NOW, THEREFORE**, the Town does engage the Fire Department to furnish fire protection to said District and the Fire Department agrees to furnish such protection in the manner following, to wit:

1. The equipment and personnel of the Fire Department shall at all times during the term of this Agreement be subject to call for attendance upon any fire occurring in such District, and when notified by any means of a fire within the District, said Fire Department shall respond and attend upon the fire without delay with one or more companies and with suitable fire-fighting equipment and apparatus of the Fire Department. Upon arriving at the scene of the fire, the firefighters of the Fire Department attending shall proceed diligently and in every way reasonably suggested under the circumstances to the extinguishments of the fire and the saving of life and property in connection therewith.

2. The Fire Department covenants and agrees at all times to maintain in force on and in respect to vehicles and equipment owned by it or subject to its control or use, while responding to, attending at or leaving from fires, alarms or calls both inside and outside said District, including, but not limited to, responses in connection with Mutual Aid Plan referred to in Paragraph 5 of this Agreement, an underlying public liability insurance policy for injury to persons and property, including wrongful death, with limits of \$500,000.00 for each person, \$1,000,000.00 for each accident and \$250,000.00 property damage for each accident and an excess public liability policy in the amount of \$3,000,000.00 insuring the Fire Department and the Town against any loss by reasons of personal injury including wrongful death, or property damage caused or contributed to by the negligent operation of said vehicles and/or equipment in connection with a fire, alarm or call in or from said District or in connection with a mutual aid response. In addition, the Fire Department agrees at all times to maintain in force public liability insurance to protect itself and the Town from all other losses occurring in its operations other than those arising out of the use and operation of said vehicles and/or equipment to persons for injury, including wrongful death, and to property in amounts for underlying and excess liability similar to that maintained for vehicles and/or equipment. All liability insurance policies must be obtained through insurance companies licensed to do business within the State of New York, must name the Town of Batavia as insured and must be maintained for the life of this Agreement.

The Fire Department shall deliver a copy of the policy of said insurance to the Town prior to the execution of this Agreement, covenants to pay the premiums thereon in timely fashion and to have said insurance policies provide for thirty (30) days written notice to the Town prior to cancellation. If the Fire Department shall fail to pay said premiums due hereunder in a timely fashion, the Town shall have the right to pay the same and to deduct the cost thereof from the amounts due the Fire Department under paragraph 7 of this Agreement.

In addition, the Fire Department hereby covenants and agrees to indemnify and hold the Town harmless from any and all losses and damages which the Town may sustain, suffer or be required to pay by reason of any claims made against said Town for injury to persons or property, including wrongful death, arising out of the performance of this agreement by the Fire Department to the extent that said losses and damages are not fully covered and paid by the insurance referred to herein.

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3. Should any loss or damage whatsoever be sustained to the fire apparatus or other equipment, said loss or damage, including the cost of materials and any other special or incidental expenses incurred in the operation of the fire apparatus or equipment of the Fire Department in answering, attending upon or returning from a call for assistance in said Town of Batavia Fire Protection District, irrespective of the cause thereof, shall be a charge upon the Fire Department and not against the Town or against the Town of Batavia Fire Protection District. This fact is taken into consideration by both parties in arriving at the consideration to be paid to the Fire Department pursuant to this Agreement.

4. To the extent that the same is not otherwise provided for by the Genesee County Mutual Aid Plan, by the county of Genesee or by some other source, the Town of Batavia shall pay at its own expense or provide necessary insurance coverage at its expense for any and all claims authorized by law for medical expenses, loss of wages, compensation or other claims arising by reason of the injury or death of a fireman, or member of the Fire Department Emergency Relief Squad, a Fire Police Squad or a Fire Patrol sustained while answering or attending upon or returning from any such call in said District.

5. The Fire Department is hereby authorized by the Town to participate in the Genesee County Mutual Aid Plan and to answer calls for aid and assistance according to said Mutual Aid Plan and System. Nothing contained in this Agreement shall be deemed to prevent the Fire Department from securing reimbursement from any entities other than the Town and the Town of Batavia Fire Protection District for either any loss or damage to its fire apparatus, equipment or materials used for the locality that issues a call for aid or for payments to injured or deceased firemen as provided by any law of the State of New York.

6. In the event that the fire-fighting equipment owned by the Fire Department is in such condition that said Fire Department is unable to fulfill its obligations under this contract to answer or attend any fire occurring in said Town of Batavia Fire Protection District for a period of twenty-one (21) days or longer, the Fire Department covenants to reimburse the Town on a pro rata basis the sums provided to be paid to the Fire Department pursuant to this Agreement retroactive to the first day of said twenty-one (21) day period for the entire period of time during which it is unable to fulfill its obligations under this Agreement.

7. A. The Town covenants and agrees to pay to the Fire Department in consideration for services to be performed pursuant to this Agreement the sum of Seven Hundred Twenty-Two Thousand Eight Hundred Twenty-Nine and 00/100 Dollars (\$722,829.00).

B. The sums as stated in this paragraph to be due and payable on the 1<sup>st</sup> day of February, 2011, upon presentation to the Town of a duly verified voucher therefore.

8. The Town covenants to provide snowplowing services for the parking and driveway area to the Fire Hall owned by the Fire Department, as well as routine maintenance of said parking lot and driveway area, both only to the extent that the Superintendent of Highways of the Town determines that said services can be provided. The Fire Department agrees to provide all materials and supplies for said maintenance services; acknowledges that said routine maintenance services shall be provided only during normal business hours of the Town of Batavia Highway Department and as other Town Highway Department functions permit. The Fire Department further acknowledges that said snowplowing services shall be provided only after the Town's Superintendent of Highways is satisfied that the highways of the Town of

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Batavia are reasonably free and clear of ice and snow and that men and machinery under his supervision and control are free to provide said services. The Fire Department hereby covenants to indemnify and to hold the Town harmless for any injury, loss or damage which the Fire Department or any other person, firm or corporation may suffer, sustain or be required to pay by reason of the Town not providing or failing to provide adequate snowplowing and/or maintenance services under the provisions of this Paragraph.

9. A. The Fire Department will provide an independent, certified audit of the financial affairs of the Fire Department.

B. Upon the Fire Department complying with the requirements of section A of this paragraph, the Town shall immediately pay to the Fire Department all remaining sums owing under the terms of this Agreement.

10. A. The Fire Department shall provide written notice to the Town of capital purchases as early as possible, but in no event not less than 30 days prior thereto; provided, however, that this provision shall not be construed as requiring or constituting any municipal approval or involvement in the corporate affairs of the Fire Department by the Town.

B. The Fire Department shall continue to exercise sound financial practices and planning, including maintenance of capital reserve accounts where feasible.

11. All moneys to be paid under any provision of this Agreement, as well as other payments which may be made from time to time according to applicable provisions of law which regulate the terms and provisions of this Agreement, shall be a charge upon the said Fire Protection District to be assessed and levied upon the taxable real property in said District and collected with the Town Taxes.

12. This Agreement shall become operative and effective from 12:01 a.m. January 1, 2011, and shall continue for a term of one (1) year which will expire at midnight on December 31, 2011.

13. It is understood and agreed that this contract is subject to the provisions of Section 184 of the Town Law of the State of New York.

**IN WITNESS WHEREOF**, the parties have duly executed and delivered this Agreement in duplicate the day and year first above written.

TOWN BOARD OF THE TOWN OF BATAVIA

BY \_\_\_\_\_  
GREGORY H. POST

(SEAL)

ATTEST:

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\_\_\_\_\_  
TERESSA M. MORASCO, TOWN CLERK

TOWN OF BATAVIA FIRE DEPARTMENT, INC.

BY \_\_\_\_\_  
MICHAEL JONES, PRESIDENT

(SEAL)

**STATE OF NEW YORK)  
COUNTY OF GENESEE) ss:**

On the \_\_\_\_ day of \_\_\_\_\_, 2010, before me came GREGORY H. POST, to me known, who, being by me duly sworn, did depose and say that he resides at 8472 Seven Strings Road in the Town of Batavia, New York; and he is the Supervisor of the **TOWN OF BATAVIA, NEW YORK** the municipal corporation described in and who executed the foregoing Agreement; that he knows the seal of said Town; that it was affixed by order of the Town Board of said Town; and that he signed his name thereto by like order.

\_\_\_\_\_  
**NOTARY PUBLIC**

**STATE OF NEW YORK)  
COUNTY OF GENESEE) ss:**

On the \_\_\_\_ day of \_\_\_\_\_, 2010, before me came MICHAEL JONES, to me known, who, being by me duly sworn, did depose and say that, he resides at 106 Hutchins Street, Batavia, New York; and he is the President of the **TOWN OF BATAVIA FIRE DEPARTMENT, INC.** the corporation described in and which executed the foregoing Agreement; that he knows the seal of said Corporation; that it was affixed by order of the Board of Directors of said Corporation; and that he signed his name thereto by like order.

\_\_\_\_\_  
**NOTARY PUBLIC**

**RESOLUTION NO. 172:**

Deputy Supervisor Underhill offered the following:

**RESOLUTION ADOPTING LOCAL LAW No. 4 OF 2010**

**WHEREAS**, proposed Local Law No. 4 of 2010 of the Town of Batavia entitled "A Local Law to

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Amend the Dog Control Law of the Town of Batavia”, which proposed Local Law in its final form was presented to the Town Board at the meeting held on November 17, 2010, and a copy thereof was kept with the Town Clerk and copies both laid upon the desks of the members of said Town Board Members and mailed to each member of the Town Board Members not in attendance at said meeting; and

**WHEREAS**, a public hearing on the advisability of enacting said proposed Local Law was held on December 15, 2010, before this Town Board, pursuant to public notice duly published in The Daily News according to law, at which time all interested persons were heard; and

**WHEREAS**, the Town Board of the Town of Batavia, New York is of the opinion that adoption of said proposed Local Law No. 4 of 2010 is in the best interest of the Town of Batavia, New York.

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Board of the Town of Batavia, New York that said proposed Local Law No. 4 of 2010 be and the same hereby is adopted; and

**BE IT FURTHER RESOLVED**, that a certified copy of said Local Law No. 4 of 2010 be filed with the New York State Secretary of State in accordance with Law.

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

**RESOLUTION NO. 173:**

Supervisor Post offered the following:

**DOG LICENSE AND CONTROL FEES**

**WHEREAS**, the Town Adopted a Local Law #4 of 2010, “A Local Law to Amend the Dog Control Law” to be in compliance with the revised New York State Agriculture and Markets Laws; and

**WHEREAS**, pursuant to Local Law #4 of 2010 the Town needs to establish dog license and control fees.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby adopts the following dog license and control fees:

Spayed/Neutered:	\$ 6.00/dog/year (\$5.00 Town / \$1.00 Animal Population Fund (APF) Surcharge)
Unspayed/Unneutered:	\$ 18.00/dog/year (\$15.00 Town/ \$3.00 APF Surcharge)
Purebred:	\$ 30.00 - up to ten (10) registered purebred dogs/ year plus the applicable APF surcharges

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\$ 60.00 - 11 to 25 registered purebred dogs/ year  
plus the applicable APF surcharges

\$100.00 - 26 to 100 registered purebred dogs/ year  
plus the applicable APF surcharges

Enumeration: \$ 5.00/dog

Late Renewal: \$ 5.00/dog

Replacement License Tag \$ 3.00

Impoundment/Seizure: As set forth in Section 117 in NYS Ag & Market Law

These fees will be effective as of January 1, 2011.

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

**Discussion-**Councilman Gerace questioned if the reporting and remittance of the Animal Population Fund monies to New York State Agriculture and Market has been resolved. The Town Clerk informed that to date, it is undetermined as to who is going to administer this program for New York State Agriculture and Market and what the accountability format is going to be.

**RESOLUTION NO.174:**

Councilwoman Michalak offered the following:

**RESOLUTION TO AMEND AND RESTATE THE MODEL PLAN FOR  
DEFERRED COMPENSATION**

**WHEREAS**, the New York State Deferred Compensation Board (the "*Board*"), pursuant to Section 5 of the New York State Finance Law ("*Section 5*") and the Regulations of the New York State Deferred Compensation Board (the "*Regulations*"), has promulgated the Plan Document of the Deferred Compensation Plan for Employees of the Town of Batavia (the "*Model Plan*") and offers the Model Plan for adoption by local employers;

**WHEREAS**, the Town of Batavia, pursuant to Section 5 and the Regulations, has adopted and currently administers the Model Plan known as the Deferred Compensation Plan for Employees of the Town of Batavia;

**WHEREAS**, effective December 7, 2007, the Board amended the Model Plan to adopt provisions relating to

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- Expanding the eligibility for unforeseeable emergency withdrawals
- Permitting law enforcement officers, firefighters, members of a rescue squad or ambulance crew who have retired for service or disability to request a plan distribution of up to \$3,000 annually to pay for health insurance or qualified long-term care premiums for themselves, their spouse or dependents.
- Permitting a beneficiary who is not the spouse of the deceased Participant to transfer their Plan account directly to an IRA.
- Permitting a Participant who is eligible for a distribution to rollover all or portion of their Plan account to a Roth IRA.

**WHEREAS**, the Board has offered for adoption the amended and restated Model Plan to each Model Plan sponsored by a local employer in accordance with the Regulations; and

**WHEREAS**, upon due deliberation, the Town Board of the Town of Batavia has concluded that it is prudent and appropriate to amend the Deferred Compensation Plan for Employees of the Town of Batavia by adopting the amended and restated Model Plan.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Town Board of the Town of Batavia hereby amends the Deferred Compensation Plan for Employees of the Town of Batavia effective December 15, 2010, by adopting the amended and restated Model Plan effective December 7, 2007, in the form attached hereto as Exhibit A.

**IN WITNESS WHEREOF**, the undersigned have executed this Resolution in the County of Genesee, New York this 15<sup>th</sup> of December, 2010 and directed that it be filed as appropriate.

**Second by:** Deputy Supervisor Underhill

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

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

**RESOLUTION NO. 175:**

Councilman Gerace offered the following:

**JANITORIAL SERVICES**

**RESOLVED**, the Batavia Town Board hereby retains New York State Industries for the Disabled, Inc., who represents Genesee County ARC, to perform janitorial services at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, from January 1, 2011 to June 30, 2011 at a monthly cost of one thousand, six hundred, thirty-three dollars and fifteen cents (\$1,633.15) 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

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

**Second by:** Councilman Lang

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

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

**Discussion-** This is a change from a yearly contract to a six month contract because New York State changed the publishing of prevailing wage rates for janitorial to July 1 to June 30.

**TOWN OF BATAVIA  
SPECIFICATIONS  
FOR  
JANITORIAL SERVICES**

**1. SERVICE LOCATION** - Batavia Town Hall, 3833 West Main Street Road, Batavia,  
New York, 14020

**2. SERVICES:**

- a. Clean sinks, toilets and mirrors.
- b. Refill toilet paper, towel and soap dispensers. (Town to provide supplies).
- c. Empty wastebaskets; place trash in bags provided by the Town.
- d. Clean conference tables, lobby table, windowsills, baseboards, chairs, door trim and doors-so as to be free of dust and dirt.
- e. Vacuum all rugs and spot clean when necessary.
- f. Front lobby and bathroom floors to be kept free of dust and dirt, and proper finishes applied (as necessary).
- g. Sweep entrances.
- h. All windows with blinds are to be dusted bi-weekly and washed when necessary.
- I. Wash interior and exterior windows two (2) times per year; Spring and Fall. Clean all glass entrance doors and interior doors with glass weekly.
- j. Clean light fixtures (as needed).

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k. Painted surfaces to be cleaned and free of fingerprints and black marks. Walls and ceilings to be free of cob webs.

**3. SCHEDULE:**

Services to be provided on a semi-weekly basis two (2) times per week on days and times agreed by vendor and Town, and with provision for holidays to be made on an occurrence basis.

**4. CLEANING MATERIALS:**

Vendor will provide all cleaning materials necessary to provide the required services as specified above.

**5. INSURANCE REQUIRED:**

Throughout the full term specified, the vendor is required to maintain, and provide evidence to the Town of a public liability insurance policy with a minimum three-hundred thousand dollar (\$300,000.00) single limit insuring the contractor (vendor) and Town for all operations performed under the agreement.

**6. TERM AND EFFECTIVE DATES:**

The term during which the specified services are to be provided is for a six month (6) year period; effective dates are January 1, 2011 through June 30, 2011 inclusive.

**RESOLUTION NO. 176:**

Councilman Lang offered the following:

**APPROVAL OF CHANGE ORDER NO. 2  
SANITARY SEWER DISTRICT NO. 1 IMPROVEMENTS**

**WHEREAS**, Tom Greenauer Development, Incorporated is under contract with the Town of Batavia for the Sanitary Sewer District No. 1 Improvements and

**WHEREAS**, Tom Greenauer Development, Incorporated has submitted a change order request in the amount of twenty-five thousand, seven hundred twenty-eight dollars and ninety-two cents (\$25,728.92), as shown on the attached Change Order No.2, and

**WHEREAS**, the Town Engineer has reviewed the change order request along with the Clerk of the Works records and recommends approval of the change order request.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Town of Batavia hereby authorizes the Supervisor to execute the attached Change Order No.2.

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

**RESOLUTION NO. 177:**

Deputy Supervisor Underhill offered the following:

**APPROVAL OF CHANGE ORDER 2010-01  
OPERATION & MAINTENANCE- TOWN OF BATAVIA  
LANDFILL SUPERFUND SITE**

**WHEREAS,** Arcadis is under contract with the Town of Batavia and the City of Batavia to provide Engineering Services at the Town of Batavia Landfill Superfund Site; and

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

**WHEREAS,** Arcadis has submitted a letter detailing the scope of work and cost estimate for providing Operation and Maintenance Engineering Services at the Site for 2010 (attached); and

**WHEREAS,** the cost for the service is estimated at seventeen thousand, two hundred, ninety-five dollars (\$17,295.00), seventy-five percent (75%) to be incurred by the City of Batavia and twenty-five percent (25%) to the Town.

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

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

**Discussion-** Supervisor Post clarified that this is for work for the 2011 calendar year.

**RESOLUTION NO. 178:**

Supervisor Post offered the following:

**BID AWARD  
WORTENDYKE AND PIKE ROADS WATER DISTRICT**

**WHEREAS,** the Town of Batavia received bids November 23, 2010 at 3:00 P.M. for the construction of approximately 4,650 linear feet of 8 inch water main, valves, hydrants, water services and appurtenances along Pike and Wortendyke Roads; and

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**WHEREAS**, Cayuga Excavating, Inc. from Interlaken, New York was the lowest responsible bidder with a total bid amount of Two Hundred, Thirteen Thousand, Five Hundred - Sixty-one dollars and zero cents (\$213,561.00) (recommendation and bid summary attached).

**NOW THEREFORE BE IT**

**RESOLVED**, the Batavia Town Board hereby awards the Bid to Cayuga Excavating, at a cost of two hundred, thirteen thousand, five hundred-sixty-one dollars and zero cents (\$213,561.00) for construction of water main, valves, hydrants, water services and appurtenances along Pike and Wortendyke Roads, contingent upon required insurance and bonding being in place as approved by the Town Attorney; and

**BE IT FURTHER RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor to execute Agreements and issue the Notice to Proceed once the aforementioned conditions are met.

**Second by:** Deputy Supervisor Underhill

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

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

**RESOLUTION NO. 179:**

Councilwoman Michalak offered the following:

**APPROVAL OF SANITARY SEWER CONNECTION  
TO WEST SAILE DRIVE SEWER BENEFIT AREA**

**WHEREAS**, connections to the West Saile Drive sanitary sewer which require a grinder pump station are paid for by project funds, and

**WHEREAS**, the NYS Trooper's barracks has determined it requires a grinder pump station and force main to connect to the public sewer, and

**WHEREAS**, three proposals for the installation of the grinder pump station and force main were obtained (proposals attached), and

**WHEREAS**, Morsch pipeline, Inc. is the lowest bidder with a total amount of \$9,980.00 plus \$75.00 per CY of rock excavation if required, and

**WHEREAS**, the Town will purchase all materials directly, including the standardized grinder pump station estimated at \$7,600, and

**WHEREAS**, sufficient project funds are available.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Batavia Town Board hereby authorizes the Supervisor to execute an agreement with Morsch Pipeline, Inc. for the sum of \$9,980.00 subject to providing necessary insurance

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and the review and approval of the insurance and agreement by the Town Attorney.

**Second by:** Councilman Lang

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

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

**RESOLUTION NO. 180:**

Councilman Gerace offered the following:

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

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

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

**WHEREAS,** Royal Employer Services will provide these services to the Town at a cost of three hundred, twenty dollars (\$320.00) annually (contract attached).

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

**RESOLVED,** this contract runs from January 1, 2011 to December 31, 2011.

**Second by:** Deputy Supervisor Underhill

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

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

**Discussion-** Supervisor Post stated that he spoke to a representative from Royal Employer Services and they would be happy to come to the Town again and give an overview of their services.

**RESOLUTION NO. 181:**

Councilman Lang offered the following:

**DRUG AND ALCOHOL TESTING SERVICES**

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

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

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

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

**RESOLVED**, this service runs from January 1, 2011 to December 31, 2011.

**Second by:** Deputy Supervisor Underhill

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

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

**RESOLUTION NO. 182:**

Deputy Supervisor Underhill offered the following:

**APPLICATION X-TENDER/QUICK SCAN PRO  
MAINTENANCE AGREEMENT  
BETWEEN BIEL'S AND THE TOWN OF BATAVIA**

**WHEREAS**, the Town purchased Documentum Software (Application X-tender & Quick Scan Pro in January 2009 from Beil's for records management; and

**WHEREAS**, in January 2010 additional modules and applications were purchased from Biel's through the Local Government Records Management Grant funds received by the Town; and

**WHEREAS**, the annual maintenance cost for this software is five thousand, five hundred, seventy-eight dollars (\$5,578.00) (agreement attached), the current agreement expires January 13, 2011.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor to execute the annual Maintenance Agreement for the Documentum Software between the Town of Batavia and Biel's at a cost of five thousand, five hundred, seventy-eight dollars (\$5,578.00) for one (1) year starting January 14, 2011.

**Second by:** Councilman Lang

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

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

**RESOLUTION NO. 183:**

Supervisor Post offered the following:

**RESOLUTION REGARDING  
COLLECTIVE BARGAINING AGREEMENT  
WITH TEAMSTERS LOCAL 264**

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**WHEREAS**, the Town of Batavia was party to the 2007-2010 collective bargaining agreement (“CBA”) with Teamster Local 264 (“Union”); and

**WHEREAS**, the Town has been actively engaged in negotiations with Local 264; and

**WHEREAS**, the Town’s negotiating representatives and the Union’s negotiating representatives have reached a tentative agreement (“Tentative Agreement”) on the terms of a new collective bargaining agreement effective through and including December 31, 2013 (with a reopener for health insurance December 31, 2011), subject to the ratification of the Union’s membership and approval of the Town Board; and

**WHEREAS**, the Union has notified the Town that the Union’s membership has ratified the Tentative Agreement; and

**WHEREAS**, the Town Board has determined that the new collective bargaining agreement will be in the best interest of the Town of Batavia.

**NOW THEREFORE, BE IT HEREBY RESOLVED**, the Town Supervisor shall be and hereby is authorized to execute on behalf of the Town a new collective bargaining agreement with the Union, effective through and including December 31, 2013 (with a reopener for health insurance December 31, 2011), incorporating the terms of the prior collective bargaining agreement as modified by the annexed tentative agreements between the Town’s negotiating team and the Union’s negotiating team.

**Second by:** Councilman Gerace

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

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

**Discussion-** The Supervisor thanked all for their participation and he commended the Union for their efforts.

**RESOLUTION NO. 184:**

Councilwoman Michalak offered the following:

**NEW YORK STATE TEAMSTERS COUNCIL HEALTH & HOSPITAL FUND**

**WHEREAS** the Town of Batavia has authorized a the supervisor to execute a new collective bargaining agreement (“CBA”) with Teamsters Local 264 effective through and including December 31, 2013, with a reopener for health insurance December 31, 2011; and

**WHEREAS** such CBA provides for health insurance coverage through the New York State Teamster Council Health and Hospital Fund (“Fund”);

**NOW THEREFORE, BE IT HEREBY RESOLVED**, the Town Board hereby authorizes the

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Town Supervisor to execute the attached New York State Teamster Council Health and Hospital Participation Agreement to facilitate the provisions of health insurance benefits required under the Town's collective bargaining agreement for the period from January 1, 2011 through and including December 31, 2011.

**Second by:** Deputy Supervisor Underhill

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

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

**SUSPEND THE RULES**-Motion Councilman Gerace, second Deputy Supervisor Underhill to suspend the rules to introduce an additional resolution.

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

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

**RESOLUTION NO. 185:**

Councilman Gerace offered the following:

**RESOLUTION TO LEASE A PORTION OF FEDERAL DRIVE  
FOR USE BY THE FEDERAL DETENTION CENTER**

**WHEREAS**, the United States of America, (hereinafter referred to as the "Government"), by United States Department of Homeland Security has made a request to lease from the Town of Batavia, (hereinafter referred to as the "Town"), a portion of Federal Drive consisting of approximately 260 linear feet that lies west of the intersection of Federal Drive with the west boundary of commerce Drive, and

**WHEREAS**, the Town has not been using this portion of Federal Drive for public transportation and will no longer need this area for any other municipal purposes, and

**WHEREAS**, the Town would prefer to either abandon this area of Federal Drive or transfer title of the same to the Government, and

**WHEREAS**, the Town has been notified that at the present time the Government is unable to take title to this property, and therefore, a lease arrangement would be necessary to meet the needs and purposes of both the Town and the Government, and

**WHEREAS**, the Government has submitted a proposed document entitled "U.S. government Lease for Real Property".

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York that the proposed "U.S. Government Lease for Real Property", for a renewable yearly rental at no cost to the Government for a parcel of land consisting of approximately 260 linear feet that lies west of the intersection of Federal Drive with the west boundary of Commerce Drive, and which is more particularly described in Exhibit A annexed to this Lease, is hereby approved, and

**BE IT FURTHER RESOLVED** that a copy of the proposed Lease shall be annexed to and made

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part of the Town Board Minutes, and

**BE IT FURTHER RESOLVED** that the Town Board hereby determines that the described area of Federal Drive has not been used for public transportation and no longer is needed for any municipal purpose, which would allow the Lease of this parcel of real property, and

**BE IT FURTHER RESOLVED** that the Town Supervisor is hereby authorized and directed to sign the “U.S. Government Lease for Real Property” and any other necessary documents related to this transaction on behalf of the Town of Batavia.

**Second by:** Councilwoman Michalak

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

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

**Abstract No. 12-2010:** Motion Councilman Lang, second Councilman Gerace to authorize the Supervisor to pay the following vouchers:

General	\$106,171.55
Highway	29,318.11
Sewer No. 1	17,290.42
Sewer No. 2	22,924.46
Water	14,872.27
Lovers Lane-WD	6,080.00
Wortendyke-WD	611.44
CDBGR	267,982.78
<b>Total</b>	<b>465,251.03</b>

Check numbers 15444 thru15518, online \$1,079.06

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

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

**DEPARTMENT REPORTS:**

**The Supervisor reported for the following Departments:**

**Highway Department-** The Deputy Highway Superintendent reported to the Town Board at today’s work session that they have been on 22 snowplowing runs and continue to work to beat the weather. The Supervisor complimented the Deputy Highway Superintendent and the Highway Crew for the admiral job they are doing.

**Water/Wastewater-** Working on closing out the Sewer District One project, working on water districts and doing ongoing leak detection.

**Supervisor’s Report:**

**Status Report** on expenditures and revenues is available for the Board’s review. The investment

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sheets will be entered into the minute book. The monies are invested in CD's and are paying a rate of .18%.

**GAM**- Next GAM Meeting will be at tomorrow evening at 7:00 P.M. at Allis Cones N Dogs, in Oakfield.

**Organizational Town Board Meeting** will be Wednesday, January 5, 2011 at 7:00 P.M.

**HIGHWAY VEHICLE PURCHASE**- Motion Councilman Gerace, second Councilman Lang authorizing the purchase of a 2011 Ford F250, at a cost of \$24,445.40, off NYS contract #21910-PF/PC65030 from VanBortal Ford for the Highway Department, said purchase will be made January 2011, expenditure line item #DA5130.200.

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

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

**COMPUTER & SOFTWARE UPGRADE**- Motion Deputy Supervisor Underhill, second Councilman Gerace authorizing the Town Engineer to purchase Auto Turn Version 7.0 Software and a Dell T7500 Computer at a cost not to exceed \$7,000.00.

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

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

**REMITTANCE OF ANIMAL CONTROL FUNDS**- Motion Councilman Gerace, second Councilwoman Michalak to retain Animal Control Funds pertaining to Local Law 4 of 2010 until such time the New York State Agriculture and Markets has an established format to receive such funds.

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

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

**COMMUNICATIONS:**

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

**November Town Clerk monthly report collected** a total of \$11,501.35 remitted \$9,870.22 to the Supervisor for the Local Share.

**NYSDOT Hawley Drive Speed Limit**-Received notification from the NYSDOT regarding the Town's petition to lower the speed limit on Assemblyman R. Stephen Hawley Drive. They have determined that the reduction of the speed limit it is not warranted at this time.

**Consolidated Charter Task Force** – The City/Town has extended the application deadline for the Consolidated Charter Task Force to January 7, 2011. Applications are available in the Town Clerk's Office and the City Clerk's Office, as well as on the Town and City websites. The application must be filed in the Town or City Clerk's Office.

**2007 Word/Excel Classes**- Attended classes this week at Genesee Community College Best Center for Word and Excel. The Town Clerk thanked the Town Board for allowing the staff this opportunity. The Supervisor commended the staff on taking advantage of this opportunity and improving the moral and working as a team.

**Town Clerk's Office will be closing at 12:00 P.M on Thursday, December 23 and will be closed Friday December 24 in observance of Christmas. It also will be closing at 12:00 P.M. on Thursday, December 30 and will be closed Friday, December 31 in observance of New Year's.**

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**Happy Holidays!!!**

**ADJOURNMENT:**

Motion Deputy Supervisor Underhill, second Councilman Lang to adjourn the Regular Town Board Meeting at 7:50 P.M.

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

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

Respectfully submitted,

Teresa M. Morasco  
Town Clerk