

**MARCH 3, 2010**  
**SPECIAL TOWN BOARD MEETING**

**Town Hall**

**5:00 P.M.**

Patti Michalak, Councilwoman 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  
Roger Muehlig, Daily News Reporter  
Dave Bownowski, Perry, New York

The Supervisor called the meeting to order at 5:10 P.M.

**RESOLUTION NO. 54:**

Councilman Lang offered the following:

**RESOLUTION TO CONTRIBUTE TO THE LOCAL SHARE  
FOR THE LGE GRANT PROGRAM AND TO ADOPT AN  
INTERMUNICIPAL AGREEMENT WITH THE CITY OF BATAVIA**

**WHEREAS**, the Town of Batavia (hereinafter “Town”) and the City of Batavia (hereinafter “City”) intend to enter into an Intermunicipal Agreement to appoint a Task Force to draft a Consolidation Charter for the merger of the City and Town into a consolidated City of Batavia pursuant to this Consolidation Charter, and

**WHEREAS**, the City and Town desire to contribute equally to the local share needed to obtain a Local Government Efficiency (LGE) grant for the 2009-2010 year.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York that it hereby expresses intent to work cooperatively with the City to appoint a Consolidated Charter Task Force and to adopt a Consolidated Charter that would merge the City and Town into one governmental unit subject to referendum, and be it further

**RESOLVED** that the Town Board acknowledges that the City plans to submit an application requesting funding from the State of New York under the Local Government Efficiency (LGE) Grant Program, and that these grant funds are to be used to retain consultants to facilitate the process of preparing a Consolidated Charter that would provide the basis for a proposed merger, and be it further

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**RESOLVED** that the Town Supervisor is hereby authorized and directed to execute all necessary financial and administrative documents and instruments relating to the Grant Program on behalf of the Town, and be it further

**RESOLVED** that the estimated cost for consulting services is \$55,000.00, and the City will apply for a maximum LGE grant of \$49,500.00, and thereby, the local share of the grant project will be \$5,500.00, and be it further

**RESOLVED** that the Town does hereby approve the expenditure of \$2,750.00 from the appropriate budget line item to provide one-half of the local share, and be it further

**RESOLVED** that a proposed “Intermunicipal Agreement by and between the City of Batavia, New York and the Town of Batavia, New York to appoint a Consolidated Charter Task Force”, a copy of which is attached and made a part of the Town Board Minutes, is hereby approved and adopted, and the Town Supervisor is authorized and directed to execute this Intermunicipal Agreement on behalf of the Town.

**Offered by:** Councilman Lang

**Second by:** Deputy Supervisor Underhill

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

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

**INTERMUNICIPAL AGREEMENT BY AND BETWEEN**  
**THE CITY OF BATAVIA, NEW YORK AND THE TOWN OF BATAVIA, NEW YORK TO**  
**APPOINT A CONSOLIDATED CHARTER TASK FORCE**

**THIS AGREEMENT**, made the \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between the **CITY OF BATAVIA, NEW YORK**, a Municipal Corporation of the State of New York, with offices located at City Hall, 1 Batavia City Centre, Batavia, New York 14020, (hereinafter referred to as the “City”), and the **TOWN OF BATAVIA, NEW YORK**, a Municipal Corporation of the State of New York, with offices located at 3833 West Main Street Road, Batavia, New York 14020, (hereinafter referred to as the “Town”).

**WITNESSETH:**

**WHEREAS**, the City and Town have jointly committed to study potential cost savings for its respective residents, including shared services and the possible consolidation of the two municipalities into a single entity, and

**WHEREAS**, the Town and City jointly created a Consolidation Study Committee whose work was funded from a grant obtained by a joint application to New York State for a Shared Municipal Services Incentive Grant, and

**WHEREAS**, on July 29, 2009, the Consolidation Study Committee issued to the City Council and

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the Town Board a final report entitled “Plan for Consolidating the City & Town of Batavia in One Government”, and

**WHEREAS**, this final report recommended a model for the merger of the City and Town into a consolidated City of Batavia with a Consolidated Charter, and

**WHEREAS**, the final report recommended that the Town and City create an entity to draft a proposed Consolidated Charter, and

**WHEREAS**, pursuant to Article 5(G) of the General Municipal Law, the Town and City are entitled to enter into the current Intermunicipal Agreement to undertake together the process set forth hereinafter to continue to study and move forward with the creation of a Charter mechanism to be submitted to the respective voters of the City and the Town for their consideration.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein, it is agreed as follows:

1. Within thirty (30) days of confirmation of the receipt of appropriate funding, the City Council and the Town Board shall appoint an Interview Committee to select a Consolidated Charter Task Force to consist of four (4) City residents and four (4) Town residents. All members of the Task Force must be at least eighteen (18) years old; however, individuals in the following categories shall not be considered for inclusion upon the Task Force:

- A. All members of the City Council and the Town Board.
- B. All members of the Planning Boards and the Zoning Boards of Appeals for both the City and the Town.
- C. All employees of the City and of the Town.
- D. All spouses of any individuals in the above three categories.

2. The Interview Committee shall consist of the City Council President and two (2) City Council Members and the Town Supervisor and two (2) Town Board Members.

3. The Interview Committee shall be authorized and directed to advertise for at least thirty (30) days in the official newspaper of the Town and City, and any other desired local media outlet, to solicit applications for the Task Force. Thereafter, the Interview Committee shall conduct interviews as they deem necessary to select the recommended eight (8) members to be submitted to the City Council and Town Board. Each individual recommendation must be approved by a unanimous vote of the Interview Committee.

4. Within thirty (30) days of receipt of the recommendations of the Interview Committee, the City Council and the Town Board shall each appoint and approve by Resolution all eight (8) of the proposed Consolidated Charter Task Force Members; with the provision that each proposed member shall be deemed approved unless rejected by at least four (4) votes from the Town Board and at least six (6) votes from the City Council.

5. The mission of the Consolidated Charter Task Force is to develop a new Charter for the consolidated City of Batavia that reflects the efforts and recommendations set forth in the “Plan for Consolidating the City & Town of Batavia in One Government”, issued in the Final Report of the

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Consolidation Study Committee on July 29, 2009. However, the Task Force is not bound by the recommendations set forth in this Final Report, and it is free to accept or reject those recommendations or concepts as it deems appropriate. The Charter will serve as a framework for the new form of government. At all times, the Consolidated Task Force shall attempt to promote recommendations that will provide the most efficient and cost effective local government to the residents of the City of Batavia and Town of Batavia while maintaining the highest quality of services available.

6. The duties of the Consolidated Charter Task Force shall be as follows:

A. To expend funds as necessary to carry out its functions as hereinafter stated within the budget guidelines and categories of the grant funding obtained by the City and Town.

B. No expenditure shall be made above and beyond the grant funding guidelines and categories, without the express prior approval of both the City Council and the Town Board.

C. The City Council and the Town Board shall remain fully, and jointly responsible for the appropriation and expenditures of the grant fundings and reserve the right by respective resolutions to direct or limit any specific expenditure by the Task Force.

D. Provide itemized monthly financial reports listing all expenditures for each month and to date.

E. Meet as often as it deems necessary and provide status reports to a joint meeting of the City Council and the Town Board every three (3) months.

F. Obtain information and documentation from all available sources necessary, including to obtain opinions and guidance from consultants and legal counsel; as well as from the public at large.

G. Provide a draft Charter document to both the City Council and the Town Board no later than July 30, 2011.

H. At all stages of this process, with a greater emphasis after the draft Charter has been submitted, hold numerous community meetings and public hearings to solicit as much public input as is possible, and to disseminate information to as many of the City and Town residents as is possible.

I. To release information regarding the progress of the Task Force through local news media sources, advertising, printings or mailings, with a greater emphasis after the draft Charter has been submitted.

J. Submit a final proposed Consolidated Charter to both the City Council and the Town Board no later than December 31, 2011.

7. Upon receipt of the final proposed City of Batavia Charter for the proposed consolidated City and Town of Batavia, the City Council and the Town Board shall consider adopting resolutions or local laws as needed to request authority from the New York State Legislature, or otherwise, to permit the City of Batavia and the Town of Batavia to hold a referendum in each municipality to determine whether or not the City and the Town should merge to expand the boundaries of the City to encompass the Town, pursuant to the terms and conditions of the proposed Charter.

8. Upon receipt of the necessary authorizations, both the City and the Town shall conduct a referendum, either pursuant to the terms and conditions of the authorizing legislation, if so required, or otherwise pursuant to existing procedures for permissive referendums that are held within the City of Batavia and within the Town of Batavia.

9. There shall be no consolidation or implementation of a proposed Charter until these proposals are accepted by a majority of the qualified and authorized voters in both the City of Batavia and the Town of Batavia.

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**IN WITNESS WHEREOF** the parties have last signed this Intermunicipal Agreement the day and year first written above.

CITY OF BATAVIA

\_\_\_\_\_  
By: Marianne Clattenburg, City Council President

TOWN OF BATAVIA

\_\_\_\_\_  
By: Gregory H. Post, Town Supervisor

State of New York }  
County of Genesee }ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 2010, before me, the undersigned, personally appeared Marianne Clattenburg, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

State of New York }  
County of Genesee }ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 2010, before me, the undersigned, personally appeared Gregory H. Post, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**RESOLUTION NO. 55:**

Deputy Supervisor Underhill offered the following:

**RESOLUTION URGING THE NEW YORK STATE LEGISLATURE TO SUPPORT THE  
STATE'S FARMLAND PROTECTION PROGRAM  
AND ENVIRONMENTAL PROTECTION FUND**

**WHEREAS**, agriculture is a significant contributor to New York's economy; and

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**WHEREAS**, farms provide jobs, support local businesses and are part of industry sectors that have a \$23 billion economic impact annually in New York; and

**WHEREAS**, farms comprise 7 million acres of land in New York, roughly 25% of the state's land base; and

**WHEREAS**, farmers have a strong track record of pro-active environmental stewardship in New York; and

**WHEREAS**, rapidly changing economic conditions threaten the future viability of New York's agricultural industry; and

**WHEREAS**, 26,000 acres of farmland are developed each year in new York; and

**WHEREAS**, the State of new York established a Farmland Protection Program in 1992 to assist towns and counties in developing and implementing local agricultural and farmland protection plans; and

**WHEREAS**, over \$3 million has been awarded by the Farmland Protection Program to 50 counties and 52 towns to assist in the development of local agricultural and farmland protection plans; and

**WHEREAS**, the Farmland Protection Program has awarded more than \$173 million to help farmers, local governments and land trusts permanently protect 74,000 acres on 303 farms; and

**WHEREAS**, demand for Farmland Protection Program funding has been strong due to the program's popularity, with a record 181 farms seeking \$156 million in state funding to protect 49,500 acres in 2008; and

**WHEREAS**, funding for the Farmland Protection Program is allocated from the state's Environmental Protection Fund (EPF), a dedicated fund whose principle funding source is a state Real Estate Transfer Tax (RETT); and

**WHEREAS**, the Governor and State Legislature must take steps this year to protect New York's valuable farmland and strengthen the future for farms across New York.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Town of Batavia does hereby urge state lawmakers to support New York's farmers, the state's agricultural economy and protection of valuable farmland by supporting funding for the Farmland Protection Program and Environmental Protection Fund; and be it further

**RESOLVED**, that the Town of Batavia does hereby oppose to drastic cuts to the Farmland Protection Program and Environmental Protection Fund, as outlined in the Governor's FY 2010 Budget Proposal; and be it further

**RESOLVED**, that the clerk of the Town of Batavia is hereby directed to forward copies of this

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resolution, along with the attached letter of support to Governor David Paterson, Senate Republican Leader Dean Skelos, Senate President Pro-Temp Malcolm Smith, Senate Democratic Conference Leader John Sampson, Assembly Speaker Sheldon Silver, Assemblyman Steven Hawley, Senator Michael Ranzenhofer, and the American Farmland Trust.

**Second by:** Councilman Gerace

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

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

March 3, 2010

Hon. David Paterson New York State Governor Executive Chambers, State Capital Albany, New York 12224	Hon. Micahel Ranzenhofer, New York State Senator 8203 Main Street, Suite 4 Williamsville, New York 14421	Hon. Stephen M. Hawley, New York State Assemblyman 121 N. Main Street, Suite 100 Albion, New York 14411
Hon. Dean Skelos NYS Senate Republican Leader LOB, Room 907 Albany, New York 12247	Hon. Malcolm Smith NYS Senate President Pro-temp LOB, Room 909 Albany, New York 12247	Hon. Sheldon Silver NYS Assembly Speaker LOB, Room 932 Albany, New York 12248
Hon. John Sampson NYS Senate Democratic Conference Leader LOB, Room 409 Albany, New York 12247	American Farmland Trust 110 Spring Street Saratoga Springs, NY 12866	

Dear \_\_\_\_\_:

I am writing to ask for your support for funding for New York’s Farmland Protection Program (FPP). This program strengthens farms and related businesses as farmers are paid to protect their land and frequently reinvest the proceeds in buying new tractors and equipment, constructing new buildings, reducing business debt and spurring rural economies. At the same time, irreplaceable farmland is being permanently protected for future generations.

Agriculture is the top employer in Genesee County. Each dollar earned or job created by dairy or crop farming generates an additional two jobs or dollars in other sectors of the economy. Farming has among the highest employment and “value added multipliers” of any industry.

The need for funding from Environmental Protection Fund (EPF) programs like FPP has never been higher. In 2008, there were \$156.5 million in FFP projects pending across New York to protect 181 farms on 49,500 acres. The represents 7 times more demand for funding than the \$22 million in funding available in the 2009-10 State Budget.

It is vital to continue the Farmland Protection Program in our community for the additional funds to create

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better “Plans” and the ongoing effort to monitor the implementation of the Agricultural and Farmland Protection Plans. To stop the process by denying access to the money that we paid in taxes for this program is unacceptable, and we hope you will assist us in our efforts to strengthen this program.

It is widely recognized that difficult budget decisions will need to be made by state leaders in the coming weeks and months. However, Governor Patterson’s FY 2010-11 State Budget proposal would disproportionately cut EPF funding by 35%, including a 55% reduction in FFP funding. I am asking for your leadership in strengthening New York’s commitment to our farms, local food security, rural economy and environment. I hope you will actively support:

- Appropriating \$222 Million for the EPF including \$23 million for EPP;
- Opposing “offloads” of program costs to the EPF that have traditionally been paid from other areas of the budget and diminish funding for core environmental programs like FFP;
- Developing a Multi-Year EPF Repayment Plan to make up for the roughly \$500 million borrowed from the EPF for non-environmental funding that has left the state unable to fulfill its EPF funding commitments.

Thank you for your commitment to programs like the state’s Farmland Protection Program that are spurring New York’s economy while protecting our environment and strengthening our communities.

Very truly yours,

Gregory H. Post  
Town Supervisor  
Town of Batavia

**RESOLUTION NO. 56:**

Supervisor Post offered the following:

**AWARD OF CONTRACT FOR LGRMIF  
IMAGING/MICROFILMING GRANT PROJECT  
BIEL’S INFORMATION TECHNOLOGY SYSTEMS**

**WHEREAS**, the Town of Batavia was awarded the Local Government Records Management Improvement Fund (LGRMIF) for imaging/ microfilming of assessment records and Town Board Minutes; and

**WHEREAS**, the Town Clerk solicited Requests for Proposals (RFP) for the imaging/ microfilm project, which were returnable by 11:00 A.M. on February 22, 2010; and

**WHEREAS**, four proposals were received, three of the four were received by the specified date and time; and

**WHEREAS**, the evaluation team reviewed the three proposals; and



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**WHEREAS**, Biel's Information submitted the lowest responsible proposal meeting specifications (recommendation 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 \$29,000.00 (includes optional integration module); and be it further

**RESOLVED**, the amount in excess of the grant amount for these services and equipment is approximately \$6,700.00 and will be funded from line item A1410.200 Equipment; and be it further

**RESOLVED**, award is contingent upon service needs being met.

**Second by:** Councilman Lang

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

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

**Discussion:** Supervisor Post reported that this was a difficult process. The Town will be building upon this and may need to engage in professional services to best address our needs in the future.

**H&S FENCE-PRE-PAY INVOICE**-Motion Councilman Lang, second Councilwoman Michalak authorizing the invoice for H&S Fence to be pre-paid, voucher #157 in the amount of \$650.00.

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

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

**EXECUTIVE SESSION:** Motion Councilman Gerace, second Councilman Lang to adjourn at 5:27 P.M. for executive session to discuss a Town Worker's Compensation case with the Genesee County Worker's Compensation Administrator, Kathy Jasinski.

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

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

**RECONVENE:** Motion Deputy Supervisor Underhill, second Councilman Lang to reconvene at 5:44 P.M.

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

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

No action taken.

**ADJOURNMENT:**

Motion Deputy Supervisor Underhill, second Councilwoman Michalak to adjourn the Special Town Board Meeting at 5:45 P.M.

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

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

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Respectfully submitted,

Teresa M. Morasco  
Town Clerk