

**DECEMBER 5, 2012  
SPECIAL TOWN BOARD MEETING**

**Town Hall**

**Immediately following Public Hearing**

John Della Penna, Town Resident and ZBA Member led the pledge to the flag.

**Roll Call**

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

**Others**

**Present:** Town Clerk Morasco  
Steven Mountain, Town Engineer  
Roger Muehlig, Daily News Reporter  
Eleven Town Residents from the Proposed Water District

The Supervisor called the meeting to order at 6:54 P.M.

**RESOLUTION NO. 191:**

Councilman Lang offered the following:

**RESOLUTION AND ORDER FOR ESTABLISHMENT OF  
THE CREEK AND EAST ROAD WATER DISTRICT  
FOR A PORTION OF THE TOWN OF BATAVIA**

**WHEREAS**, the Town Board of the Town of Batavia duly adopted a Resolution directing Gregory H. Post, the Town Supervisor of the Town of Batavia to file a map, plan and report as prepared by the Town's engineer for providing the facilities, improvements or services in a portion of the Town of Batavia, wherein a water district was proposed to be established, as hereinafter described, and

**WHEREAS**, after the said Town Supervisor duly filed said map, plan and report in the office of the Town Clerk of the Town of Batavia on October 22, 2012, and the said Town Board did on November 19, 2012, duly adopt an Order reciting a description of the boundaries of the proposed district, the maximum amount proposed to be expended for the improvement, the proposed method of financing to be employed, the fact that a plan, map and report describing the same are on file in the Town Clerk's Office for public inspection and specifying that said Town Board shall meet at the Town Hall on the 5<sup>th</sup> day of December, 2012, for the purpose of conducting a public hearing on such proposal to establish the water district with the specified improvements and to hear all persons interested in the subject thereof concerning the same, and

**WHEREAS**, a "Petition to Request Water District " was filed in the Batavia Town Clerk's Office on November 19, 2012, which was signed by a number of owners within said district, which was greater than the percentage required by law, and

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**WHEREAS**, the improvements proposed are as follows: a project to provide a safe and reliable potable water supply and fire protection to certain residences in the proposed Creek and East Road Water District. The overall project will consist of the construction and installation of approximately 22,000 linear feet of eight (8) inch water main along portions of Creek Road, East Road, Lehigh Road and Dorman Road; together with all related right-of-way costs, site work and other ancillary work, including hydrants, valves, apparatus, and other improvements and costs incidental thereto (referred to herein as “water improvement”), and

**WHEREAS**, copies of the aforesaid said Order for a Public Hearing were duly published and posted according to law, and said Town Board did, at the time and place specified in said Order, duly meet and consider such proposal and heard all persons interested in the subject thereof, who appeared at such time and place, concerning the same, and

**WHEREAS**, the evidence offered at such hearing requires that the Town Board make the determinations hereinafter made;

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Board of the Town of Batavia, in the County of Genesee, that it be and hereby is determined as follows:

- (1) The aforesaid “Petition to Request Water District” was signed, and acknowledged or proved or authenticated, as required by law and is otherwise sufficient.
- (2) The Notice of Hearing was published and posted as required by law and is otherwise sufficient.
- (3) That all the property and property owners within the proposed water district are benefited thereby.
- (4) That all of the property and property owners benefited are included within the proposed water district.
- (5) It is in the public interest to establish the proposed water district as hereinafter described; and be it

**FURTHER RESOLVED**, that the Town Board does hereby approve the establishment of a Water District as hereinafter described to be known as the Town of Batavia Creek and East Road Water District. Said Water District being described on **EXHIBIT A**, attached hereto and made a part hereof; and be it

**FURTHER RESOLVED** that the maximum amount proposed to be expended for such water improvement is \$1,220,600.00, which is planned to be financed by the issuance of serial bonds in the amount not to exceed \$1,220,600.00, offset by any funds received from the United States of America, and/or the State of New York, and/or the County of Genesee, and/or local grants; including, but not limited to, a USDA Rural Development Agency grant, of approximately \$500,000.00, and be it

**FURTHER RESOLVED** that the proposed annual debt service (assuming 54.5 units) is estimated to be approximately \$543.00 per typical property user in the proposed district, which is a single family home, and be it

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**FURTHER RESOLVED** that a typical household uses 63,000 gallons of water per year and the estimated cost of the water to be purchased by the water district's users is a total of \$4.57 per 1,000 gallons used; thereby the average household can expect to additionally pay approximately \$288.00 per year for water purchase above and beyond the debt service, and be it

**FURTHER RESOLVED** that based upon the foregoing estimates, the total annual cost of the typical property in the proposed district is estimated to be \$831.00 per year, and be it

**FURTHER RESOLVED** that payment of the debt service will be made by levy and collection of special assessments from the several lots and parcels of lands within the water district, which the Town Board shall determine and specify to be specially benefited thereby, so much upon and from each as shall be in just proportion of the amount of benefit conferred 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 RESOLVED** that each property will also have to pay for service from their home to the road right-of-way, incurring estimated one time costs of approximately \$125.00 for a meter, plus approximately \$8.00-\$12.00 per linear feet of pipe, plus potential well abandonment or separation charges of approximately \$200.00-\$600.00; as well as any internal plumbing charges, and be it

**FURTHER RESOLVED** that this Resolution and Order is not subject to a permissive referendum; and be it

**FURTHER RESOLVED** that within ten (10) days after the adoption hereof, the Town Clerk shall post and publish as provided by law a Notice setting forth the date of the adoption of this Resolution and Order and containing an abstract of this Resolution and Order concisely stating the purpose and effect hereof; and be it

**FURTHER RESOLVED**, that the Town Supervisor, assisted by the Town Attorney and Town Bond Counsel will prepare an application to the Office of the State Comptroller, Department of Audit and Control for approval of the formation of this Water District, and be it

**FURTHER RESOLVED**, that the Town Clerk is hereby authorized and directed to record a certified copy of this Resolution and Order in the Office of the Genesee County Clerk, and to file a certified copy of this Resolution and Order in the Office of the State Department of Audit and Control, within ten (10) days hereof.

**Second by:** Councilwoman Michalak

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

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

**EXHIBIT "A"**

**TOWN OF BATAVIA  
PROPOSED CREEK & ROAD WATER DISTRICT**

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The boundary of the proposed Town of Batavia Creek & East Road Water District includes all that tract or parcel of land situated in the Town of Batavia, County of Genesee, State of New York, being described as follows:

Beginning at a point which is the intersection of the centerline of Creek Road and the Batavia/Alexander Municipal Boundary; thence,

1. Westerly, along the Batavia/Alexander Municipal Boundary, a distance of 2,325 feet, more or less, to the intersection of the centerline of the Tonawanda Creek and the Batavia/Alexander Municipal Boundary; thence,
2. Northerly, along the centerline of the Tonawanda Creek, a distance of 21,164 feet, more or less, to the intersection of the centerline of the Tonawanda Creek and the City of Batavia Municipal Boundary; thence,
3. Easterly, along the City of Batavia Municipal Boundary, a distance of 2,108 feet, more or less, to a northeasterly corner of Tax Parcel number 13.-1-103.2; thence,
4. Southeasterly, along the northeasterly line of Tax Parcel number 13.-1-103.2, a distance of 403 feet, more or less, to a northeasterly corner of Tax Parcel number 13.-1-103.2; thence,
5. Southerly, along the easterly line of Tax Parcel number 13.-1-103.2, a distance of 233 feet, more or less, to the southeasterly corner of Tax Parcel number 13.-1-103.2; thence,
6. Westerly, along the southerly line of Tax Parcel number 13.-1-103.2, a distance of 956 feet, more or less, to the southwesterly corner of Tax Parcel number 13.-1-103.2; thence,
7. Southerly, along the easterly line of Tax Parcel number 13.-1-104.1, a distance of 608 feet, more or less, to the southeasterly corner of Tax Parcel number 13.-1-104.1; thence,
8. Westerly, along the southerly line of Tax Parcel number 13.-1-104.1, a distance of 875 feet, more or less, to the southwesterly corner of tax Parcel number 13.-1-104.1; thence,
9. Northerly, along an westerly line of Tax Parcel number 13.-1-104.1, a distance of 19 feet, more or less, to a southeasterly corner of Tax Parcel number 12.-1-56.1; thence,
10. Southwesterly, along a southeasterly line of Tax Parcel number 12.-1-56.1, a distance of 254 feet, more or less, to a southeasterly corner of Tax Parcel number 12.-1-56.1; thence,
11. Easterly, along the northerly line of Tax Parcel number 12.-1-57, a distance of 250 feet, more or less, to the northeasterly corner of Tax Parcel number 12.-1-57; thence,
12. Southerly, along the easterly line of Tax Parcel numbers 12.-1-57 and 19.-1-1.1, a distance of 1,543, more or less, to the southeasterly corner of Tax Parcel number 19.-1-1.1; thence,
13. Easterly, along the northerly line of Tax Parcel number 19.-1-5.1, a distance of 792 feet, more or less, to the northeasterly corner of Tax Parcel number 19.-1-5.1; thence,
14. Southerly, along the easterly line of Tax Parcel number 19.-1-5.1, a distance of 1,139 feet, more or less, to the southeasterly corner of Tax Parcel number 19.-1-5.1; thence,
15. Easterly, along the northerly line of Tax Parcel numbers 19.-1-53 and 19.-1-54, a distance of 2,224 feet, more or less, to the northeasterly line of Tax Parcel number 19.-1-54; thence,
16. Southerly, along the easterly line of Tax Parcel numbers 19.-1-54, 19.-1-11.113, and 19.-1-51, a distance of 1,707 feet, more or less, to the northwesterly corner of Tax Parcel number 20.-2-56; thence,
17. Easterly, along the northerly line of Tax Parcel number 20.-2-56, a distance of 1,000 feet, more or less, to the northeasterly corner of Tax Parcel number 20.-2-56; thence,

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18. Northerly, along the westerly line of Tax Parcel number 20.-2-55.21, a distance of 111 feet, more or less, to the northwesterly corner of Tax Parcel number 20.-2-55.21; thence,
19. Easterly, along the northerly line of Tax Parcel numbers 20.-2-55.21, 20.-2-54.1, 20.-2-54.2, 20.-2-53, and 20.-2-52.1, a distance of 1,945 feet, more or less, to the northeasterly corner of Tax Parcel number 20.-2-52.1; thence,
20. Southerly, along the easterly line of Tax Parcel number 20.-2-52.1, a distance of 1,172 feet, more or less, to a southeasterly corner of Tax Parcel number 20.-2-52.1; thence,
21. Southeasterly, along the northeasterly line of Tax Parcel number 20.-2-52.12, a distance of 135 feet, more or less, to the easterly corner of Tax Parcel number 20.-2-52.12; thence,
22. Southwesterly, along the southeasterly line of Tax Parcel number 20.-2-52.12, a distance of 274 feet, more or less, to the southerly corner of Tax Parcel number 20.-2-52.12; thence,
23. Southerly, along the right-of-way of East Road (49.5 feet wide right-of-way), a distance of 84 feet, more or less, to a point along the right-of-way of East Road where it intersection with intersects with the Shepard & Putnam Road Water District; thence,
24. Southwesterly, through the right-of-way of East Road (49.5 feet wide right-of-way), continuing through Tax Parcel number 20.-2-48 and along the boundary of the Shepard & Putnam Road Water District, a distance of 857 feet, more or less, to the intersection of the southwesterly line of Tax Parcel number 20.-2-48 and the boundary of Shepard & Putnam Road Water District; thence,
25. Northwesterly, along the southwesterly line of Tax Parcel numbers 20.-2-48 and 20.-2-50.11, a distance of 911 feet, more or less, to the southwesterly corner of Tax Parcel number 20.-2-50.11; thence,
26. Southerly, along the easterly line of Tax Parcel number 20.-2-41, a distance of 1,202 feet, more or less, to the southeasterly corner of Tax Parcel number 20.-2-41; thence,
27. Southwesterly, along the southeasterly line of Tax Parcel number 20.-2-41, a distance of 657 feet, more or less, to the southwesterly corner of Tax Parcel number 20.-2-41; thence,
28. Northerly, along the westerly line of Tax Parcel number 20.-2-41, a distance of 1,255 feet, more or less, to the southeasterly corner of Tax Parcel number 20.-2-57; thence,
29. Westerly, along the southerly line of Tax Parcel number 20.-2-57, a distance of 990 feet, more or less, to the southwesterly corner of Tax Parcel number 20.-2-57; thence,
30. Southerly, along the easterly line of Tax Parcel number 19.-1-14, a distance of 358 feet, more or less, to the southeasterly corner of Tax Parcel number 19.-1-14; thence,
31. Westerly, along the southerly line of Tax Parcel numbers 19.-1-14 and 19.-1-12.111, a distance of 2,134 feet, more or less, to the northeasterly corner of Tax Parcel number 19.-1-19.21; thence,
32. Southerly, along the easterly line of Tax Parcel number 19.-1-19.21, a distance of 368 feet, more or less, to the southeasterly corner of Tax Parcel number 19.-1-19.21; thence,
33. Westerly, along the southerly line of Tax Parcel number 19.-1-19.21, a distance of 894 feet, more or less, to the northeasterly corner of Tax Parcel number 19.-1-18; thence,
34. Southerly, along the entire easterly line of Tax Parcel number 19.-1-18, a distance of 1,888 feet, more or less, to the southeasterly corner of Tax Parcel number 19.-1-18; thence,
35. Westerly, along the Batavia/Alexander Municipal Boundary, a distance of 2,677 feet, more or less, to the point of beginning.

All as shown on a map prepared by the Town of Batavia entitled, "Proposed Creek & East Road Water District – 2011 Water System Improvements," dated 5/2011. The Town of Batavia Creek & East Road

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Water District, as described above, contains approximately 1,552.7 acres of land.

**ADJOURNMENT:**

Motion Deputy Supervisor Underhill, second Councilman Zambito to adjourn the Special Town Board Meeting at 7:05 P.M.

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

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

Respectfully submitted,

Teresa M. Morasco  
Town Clerk