

**MARCH 21, 2012  
REGULAR TOWN BOARD MEETING**

**Town Hall**

**7:00 P.M.**

Greg Post, Supervisor led the pledge to the flag.

**Roll Call**

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

**Others**

**Present:** Town Clerk Morasco  
Steve Mountain, Town Engineer

The Supervisor called the meeting to order at 7:35 P.M.

**February 15, 2012 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)**

**March 5, 2012 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)**

**March 14, 2012 Public Hearing-CDBG Grant-Ag Park:** Motion Councilman Gerace, second Deputy Supervisor Underhill to approve the minutes as written.

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

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

**March 14, 2012 Special Town Board Meeting:** Motion Councilman Lang, second Councilman Gerace to approve the minutes as written.

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

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

**RESOLUTION NO.74:**

Councilman Lang offered the following:

**RESOLUTION AND ORDER FOR ESTABLISHMENT  
OF THE WEST MAIN STREET ROAD SEWER DISTRICT  
FOR A PORTION OF THE TOWN OF BATAVIA**

**WHEREAS**, the Town Engineer of the Town of Batavia has filed a map, plan and report for providing the facilities, improvements or services in a portion of the Town of Batavia, wherein a Sewer District was proposed to be established, as hereinafter described, and

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**WHEREAS**, after the said Town Engineer duly filed said map, plan and report in the office of the Town Clerk of the Town of Batavia on February 14, 2012, and the said Town Board, did on February 15, 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 21<sup>st</sup> day of March, 2012, for the purpose of conducting a public hearing on such proposal to establish the Sewer District with the specified improvements and to hear all persons interested in the subject thereof concerning the same, and

**WHEREAS**, the improvements proposed are as follows: a project to provide a safe and reliable sewer system to certain residences and businesses in the proposed West Main Street Road Sewer District. The overall project will consist of the construction and installation of approximately 11,350 linear feet of new eight (8) inch diameter sanitary sewer gravity main and approximately 3,600 linear feet of new six (6) inch sanitary sewer force main to run starting on West Main Street Road and connecting to the west boundary of current Sewer District No. 2, and thence running westerly along West Main Street Road for approximately 10,300 feet, and also running northerly along Kelsey Road from its intersection with West Main Street Road for a distance of approximately 1,200 feet, together with all related right-of-way costs, site work and other ancillary work, apparatus and other improvements and costs incidental thereto (referred to herein as "sewer 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 Notice of Hearing was published and posted as required by law and is otherwise sufficient.
- (2) That all the property and property owners, within the proposed Sewer District are benefited thereby.
- (3) That all of the property and property owners benefited are included within the proposed Sewer District.
- (4) It is in the public interest to establish the proposed Sewer District as hereinafter described; and be it

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

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**FURTHER RESOLVED**, that the maximum amount proposed to be expended for such sewer improvement is \$2,822,000.00, which is planned to be financed by the issuance of serial bonds in an amount not to exceed \$2,822,000.00, offset by any funds to be received from the United States of America, and/or the State of New York, and/or local grants; including, but not limited to, a CDBG grant and other grants totaling \$1,600,000.00, and be it

**FURTHER RESOLVED** that the proposed debt of \$1,222,000.00 from Federal, New York State and/or local loans shall be paid over a 38 year term at 2.375% interest, thereby creating an annual debt service (assuming 67 residential units) of \$248.00 per typical property user in the proposed district, which is a single family home, and be it

**FURTHER RESOLVED** that a typical residential household uses 63,000 gallons of water per year and the estimated cost of the sewer service, which is based upon water consumption for the average household, is expected to be approximately \$344.00 per year for sewer usage beyond the debt service, and be it

**FURTHER RESOLVED** that based upon the foregoing estimates, the total annual cost of the typical residential property in the proposed district will be \$592.00 per year, and be it

**FURTHER RESOLVED** that the estimated average annual debt service for commercial property in the district will be \$1,253.00, with an average cost for sewer usage beyond the debt service of \$1,483.00 per year; thereby the total annual cost for commercial property in the proposed district will be \$2,736.00 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 Sewer 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 an estimated one time cost of approximately \$15.00-\$20.00 per linear feet of pipe, plus sewer system abandonment 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 subject to a permissive referendum limited to the area encompassed by said West Main Street Road Sewer District, in the manner provided by Article 7 of the Town Law and Subdivision 11 of Section 209-q of the Town Law; 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

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**FURTHER RESOLVED**, that the formation of this Sewer District is not subject to approval by the Office of the State Comptroller, Department of Audit and Control, and be it

**FURTHER RESOLVED**, that the Town Clerk be and she hereby is 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 after the end of the permissive referendum deadline (30 days after adoption of this Resolution).

**Second by:** Deputy Supervisor Underhill

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

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

**EXHIBIT A**

**TOWN OF BATAVIA**

**WEST MAIN STREET ROAD SEWER DISTRICT**

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

Beginning at a point at the westerly line of the Existing Town of Batavia Sewer District No. 2 at the centerline of West Main Street Road (NYS Route 5) (99 feet wide right-of-way); thence,

1. Southerly, along the westerly line of the existing Town of Batavia Sewer District, a distance of 685 feet, more or less, to the southeasterly corner of tax account number 11-2-55; thence,
2. Westerly, along the southerly property lines of tax account numbers 11-2-55, 11-2-54, 11-2-48, 11-2-47, 11-2-46, 11-2-45, 11-2-44, 11-2-43, 11-2-42, 11-2-41, 11-2-40, 11-2-39, 11-2-38, 11-2-37, 11-2-36, 11-2-35, 11-2-34, 11-2-33, 11-2-32, 11-2-31, 11-2-30, 11-2-29, 11-2-17.2, 11-2-17.1, 11-2-16.2, 11-2-16.1, 11-2-14, 11-2-11, 11-2-5, 11-2-4, 11-1-23, 11-1-20 and 11-1-19, a distance of 9,253 feet, more or less, to the southeasterly corner of tax account number 11-1-17; thence,
3. Westerly, along the southerly property line of tax account number 11-1-17, a distance of 288 feet, more or less, to a point on the centerline of Wortendyke Road (49.5 feet wide right-of-way); thence,
4. Southerly, along the centerline of Wortendyke Road, a distance of 2,411 feet, more or less, to a point on centerline of Wortendyke Road at the easterly extension of the southerly property line of 11-1-60; thence,
5. Westerly, along the southerly property line of tax account number 11-1-60, a distance of 1,281 feet, more or less, to the southwesterly corner thereof; thence,

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6. Northerly, along the westerly property line of tax account number 11-1-60 and 11-1-61, a distance of 2,500 feet, more or less, to the centerline of West Main Street Road; thence,
7. Westerly, along the centerline of West Main Street Road a distance of 100 feet, more or less, to a point on the centerline of said road at the southerly extension of the westerly line of tax account number 6-1-17.2; thence,
8. Northerly, through the right-of-way of West Main Street Road and along the westerly property line of tax account 6-1-17.2, a distance of 250 feet, more or less, to the northwesterly corner thereof; thence,
9. Easterly, along the northerly property line of tax account number 6-1-17.2, a distance of 100 feet, more or less, to the northeasterly corner thereof; thence,
10. Northerly, along the westerly property line of tax account number 11-1-2.1, a distance of 110 feet, more or less, to the northwesterly corner thereof; thence,
11. Easterly, along the northerly property line of tax account number 11-1-2.1 a distance of 115 feet, more or less, to the northeasterly corner thereof; thence,
12. Northerly, along the westerly property line of tax account number 11-1-3, a distance of 90feet, more or less, to the northwesterly corner thereof; thence,
13. Easterly, along the northerly property lines of tax account numbers 11-1-3, 11-1-4, 11-1-5, 11-1-6, 11-1-7, 11-1-8, 11-1-9, 11-1-10, 11-1-11.1, 11-1-11.2, 11-1-12 and 11-1-13, a distance of 676 feet, more or less, to the northeasterly corner of tax account number 11-1-12; thence,
14. Northerly, along the westerly property line of tax account numbers 11-1-13 and 11-1-14, a distance of 964 feet, more or less, to the northwesterly corner thereof; thence,
15. Easterly, along the northerly property line of tax account number 11-1-14, a distance of 1,201 feet, more or less, to a point along the northeasterly corner thereof; said point being 500 feet north of the centerline of West Main Street Road; thence,
16. Northeasterly, through the lands of tax account number 11-1-16, along a line 500 feet northerly of and parallel to the centerline of West Main Street Road, a distance of 246 feet, more or less, to the centerline of Stegman Road (49.5 feet wide right-of-way); thence,
17. Southerly, along the centerline of Stegman Road a distance of 28 feet, more or less, to a point on the centerline of Stegman Road at the westerly extension of the northerly property line of tax account number 7-1-54.112; thence,
18. Northeasterly, through the Stegman Road right-of-way along the northwesterly property line of tax account number 7-1-54-.112, a distance of 623 feet, more or less, to the northeasterly corner thereof; thence,
19. Northerly, along the westerly property line of tax account number 7-1-52, a distance of 753 feet, more or less, to the northwesterly corner thereof; thence,
20. Easterly, along the northerly property lines of tax account numbers, 7-1-52, 7-1-51 and 7-1-50, a distance of 545 feet, more or less, to the northeasterly corner of tax account number 7-1-50; thence,

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21. Southerly, along the easterly property line of tax account number 7-1-50, a distance of 228 feet, more or less, to the northwesterly corner of tax account number 7-1-49; thence,
22. Easterly, along the northerly line of tax account number 7-1-49, a distance of 244 feet, more or less, to the northeasterly corner thereof; thence,
23. Northerly, along the westerly property line of tax account number 7-1-47, a distance of 208 feet, more or less, to the northwesterly corner thereof; thence,
24. Easterly, along the northerly line of tax account number 7-1-47, a distance of 571 feet, more or less, to the northeasterly corner thereof; thence,
25. Northerly, along the westerly property lines of tax account numbers 7-1-41.111, 7-1-41.121 and 7-1-41.112, a distance of 576 feet, more or less, to the northwesterly corner of 7-1-41.112; thence,
26. Easterly, along the northerly lines of tax account numbers 7-1-41.112 and 7-1-41.2, a distance of 339 feet, more or less, to the centerline of Kelsey Road (49.5 feet wide right-of-way); thence,
27. Southerly, along the centerline of Kelsey Road, a distance of 51 feet, more or less, to a point on said centerline; thence,
28. Easterly, along the northerly line of tax account number 7-1-38, a distance of 1,203 feet, more or less, to the northeasterly corner thereof; thence,
29. Northerly, along the westerly property line of tax account number 7-1-87.111, a distance of 3,021 feet, more or less, to the northwesterly corner thereof, thence,
30. Easterly, along the northerly lines of tax account numbers 7-1-87.111 and 7-1-87.2, a distance of 3,769 feet, more or less, to the northeasterly corner of tax account number 7-1-87.2; thence,
31. Southerly, along the westerly bounds of the existing sewer district, a distance of 3,075 feet, more or less, to the northwesterly corner of tax account number 7-1-23.1; thence,
32. Easterly, along the southerly line of the existing sewer district and through the lands of 7-1-25.1, a distance of 450 feet, more or less, to the northeasterly corner thereof; thence,
33. Northerly, along westerly line of the existing sewer district and along the westerly line of tax account number 7-1-23.1, a distance of 263 feet, more or less, to the northwesterly corner thereof; thence,
34. Easterly, along the westerly line of the existing sewer district and along the northerly line of tax account number 7-1-23.1, a distance of 200 feet, more or less, to the northeasterly corner thereof; thence,
35. Southerly, along the westerly line of the existing sewer district and along the easterly line of tax account number 7-1-23.1, a distance of 360 feet, more or less, to an easterly corner thereof; thence,
36. Easterly, along the southerly line of existing sewer district and along the northerly line of tax account number 7-1-23.1, a distance of 100 feet, more or less, to the northeasterly corner thereof; thence,

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37. Southerly, along the westerly line of the Existing Town of Batavia Sewer District No. 2, a distance of 250 feet, more or less, to the point of beginning.

Town of Batavia West Main Street Road Sewer District as described above contains approximately 583.2 acres of land.

**NOTICE OF ADOPTION OF RESOLUTION AND ORDER FOR ESTABLISHMENT  
OF THE WEST MAIN STREET ROAD SEWER DISTRICT FOR A PORTION  
OF THE TOWN OF BATAVIA SUBJECT TO PERMISSIVE REFERENDUM**

**NOTICE IS HEREBY GIVEN** that at a regular meeting held on the 21<sup>st</sup> day of March, 2012, the Town Board of the Town of Batavia duly adopted a Resolution, an abstract of which follows, which Resolution is subject to permissive referendum pursuant to Article 7 and Section 209-q of the Town Law of the State of New York.

Said Resolution establishes a Sewer District within the Town of Batavia known as the West Main Street Road Sewer District and sets forth the boundaries therefor, makes certain findings and determinations relative to the establishment of said District, describes the improvements to be constructed within the District and the method of financing thereof, and determines that said Resolution shall be subject to permissive referendum limited to the area encompassed by said West Main Street Road Sewer District.

Dated: March 21, 2012

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Teressa M. Morasco, Town Clerk  
Town of Batavia

**RESOLUTION NO. 75:**

Deputy Supervisor Underhill offered the following:

**GENESEE COUNTY MULTI-JURISDICTIONAL  
ALL – HAZARD MITIGATION PLAN  
TOWN OF BATAVIA**

**WHEREAS**, the Town of Batavia, with the assistance from the Genesee/Finger Lakes Regional Planning Council and Genesee County Emergency Management, has gathered information and prepared the Genesee County Multi-Jurisdictional All – Hazard Mitigation Plan; and

**WHEREAS**, the Genesee County Multi-Jurisdictional All – Hazard Mitigation Plan has been prepared in accordance with FEMA requirements at 44 C.F.R.201.6; and

**WHEREAS**, the Town of Batavia is a local unit of government that has afforded the citizens an opportunity to comment and provide input in the Plan and the actions in the Plan; and

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**WHEREAS**, the Batavia Town Board has reviewed the Plan and affirms that the Plan will be updated no less than every five years;

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Town Board of the Town of Batavia hereby adopts the Genesee County Multi-Jurisdictional All – Hazard Mitigation Plan as this jurisdiction’s All – Hazard Mitigation Plan, and resolves to execute the actions in the Plan.

**Second by:** Councilman Lang

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

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

**RESOLUTION NO. 76:**

Supervisor Post 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 Town of Batavia (the "*Model Plan*") and offers the Model Plan for adoption by local employers;

**WHEREAS**, 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 Town of Batavia;

**WHEREAS**, effective August 26, 2011 the Board amended the Model Plan to adopt provisions

- Reorganizing and updating sections to improve the overall readability and eliminate unnecessary numerical references (annual limits) from the Model Plan document.
- Including employer elections within the plan document including: suspension of deferrals following an unforeseeable emergency withdrawal, automatic distributions from small and inactive accounts, loan design parameters and Roth deferrals and in-plan conversions are permissive.
- Clarifying the first date a participant may make deferrals in compliance with Code Section 457(b) and timing requirements for any subsequent changes to deferral rates or allocations between pre-tax and after-tax deferrals.
- Clarifying compensation available for deferral for purposes of calculating contributions and recognizes that employers use various methods in determining the order of deductions taken before a deferral percentage is applied.
- Including provisions related to HEART Act of 2008 regarding treatment of differential pay and qualifying distributions for active military service in compliance with the HEART Act, including



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suspension of deferrals for six months following distribution.

- Making technical recognition of the waiver of RMDs for 2009.
- Clarifying that a beneficiary form must be received in good order to be considered valid.
- Clarifying that the Model Plan will only accept rollovers from Eligible Retirement Plans comprised of pre-tax amounts and amounts may be rolled in by participants, beneficiaries (other than inherited accounts) and alternate payees. Model Plans may roll account balances out to Eligible Retirement Plans that include post-tax amounts if the receiving plan separately accounts for them.
- Clarifying that a beneficiary of a deceased participant may roll a distribution directly to a Roth IRA, in addition to plan participants.
- Including language allowing for future delivery of participant communications through electronic means, where appropriate.
- Codifying that periodic and lump sum payments must be a minimum of \$100 per payment, unless the Committee selects a different minimum, and sets a maximum annual number of partial distributions.
- Clarifying that the \$50,000 loan limit includes the highest loan value in the last twelve months from the Model Plan and other employer plans. Regarding participants who have defaulted on a Plan loan, subsequent loans would not be allowed until defaulted loan is repaid. Removes requirement that a participant must wait until the term of the original loan expires before applying for a new loan, assuming the defaulted loan is repaid.
- Providing guidance on the handling of the receipt of special proceeds such as SEC settlements payable to former participants.
- Allowing a surviving spouse beneficiary to name a beneficiary on their account.
- Including the 5 year option for non-spousal beneficiaries to receive distributions and makes distribution rules consistent for pre- and post-age 70½ deaths.
- Allowing earlier distributions due to severance of employment as long as a balance of \$500 remains in the account for 45 days after a severance from employment.
- Providing that outstanding loans from another New York state 457(b) plan may be allowed to be transferred or rolled in with a full account transfer.
- Removing the Power of Attorney Language since the acceptance of a power of attorney is governed by State law and not required in the Model Plan document.
- Clarifying the requirement that Committee actions must be taken at a public meeting in accordance with Article 7 of the Public Officers Law.
- Limiting indemnification to Committee Members only.

**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, Town of Batavia has concluded that it is prudent and appropriate to amend the Deferred Compensation Plan for Employees of Town of Batavia by adopting the amended 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 Town of Batavia by adopting the amended Model Plan effective

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March 21, 2012, by adopting the amended and restated Model Plan effective August 26, 2011, in the form attached hereto as Exhibit A.

**IN WITNESS WHEREOF**, the undersigned have executed this Resolution in Genesee County, Batavia, New York this 21<sup>st</sup> day of March 2012 and directed that it be filed as appropriate.

**Second by:** Councilman Gerace

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

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

**RESOLUTION NO. 77:**

Councilwoman Michalak offered the following:

**TOWN OF BATAVIA**  
**KIWANIS TOWN PARK-CANOE LAUNCH**

**SEQR RESOLUTION - NEGATIVE DECLARATION**

**WHEREAS,**

1. In accordance with the New York State Environmental Quality Review regulations (SEQR), the Town Board of the Town of Batavia announced its intent to serve as lead agency on February 15, 2012, to conduct an environmental review of the proposed Canoe Launch at Kiwanis Town Park. The project will improve the recreational access to the Tonawanda Creek.
2. The Town Board has determined that, the proposed action is an unlisted action as defined under SEQR.
3. The Town Board, in its capacity of lead agency, has caused to be prepared a short form environmental assessment of the significance of and potential environmental impact of the action described above.
4. On February 15, 2012, the Town Board notified the Involved Agencies of its intention to act as Lead Agency for this project and circulated the Environmental Assessment Form.
5. The Town received no objections or comments from Involved Agencies on the project. The Town will continue to work with State, Federal and local agencies until all necessary permits and approvals have been obtained.
6. The Town Board has considered the Environmental Record prepared for this action and the proposed Negative Declaration.

**NOW THEREFORE BE IT RESOLVED,**

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**The Town Board of the Town of Batavia declares that it will serve as Lead Agency for the Kiwanis Town Park Canoe Launch project area; and,**

The Town Board declares that, based on the Environmental Record which has been prepared, the project will result in no major impacts and, therefore, will not cause significant damage to the environment. A Negative Declaration under SEQR is therefore issued for this project.

**Second by:** Deputy Supervisor Underhill

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

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

**RESOLUTION NO. 78:**

Councilman Gerace offered the following:

**PROFESSIONAL SERVICES  
BIEL'S INFORMATION TECHNOLOGY SYSTEMS**

**WHEREAS,** the Town of Batavia was awarded the Local Government Records Management Improvement Fund (LGRMIF) for Document Conversion and Access of Planning Board and Zoning Board of Appeals Minutes and Court Records; and

**WHEREAS,** a new application for Court Records needs to be created in ApplicationXtender - Documentum Software program; and

**WHEREAS,** Biels Information Technology Systems submitted a professional services quote of three thousand dollars (\$3,000.00) to create the new court records application (quote attached).

**NOW, THEREFORE, BE IT**

**RESOLVED,** the Batavia Town Board hereby authorizes the Supervisor to execute the service proposal at a cost of three thousand dollars (\$3,000.00); and be it

**FURTHER RESOLVED,** if the creation of the application exceeds 21hours, an additional 8 hour block will be purchased for one thousand dollars (\$1,000.00) or at a rate of one hundred fifty dollars per hour (\$150.00/hr) if less additional hours are needed; and be it

**FURTHER RESOLVED,** the expenditure will be appropriated from line item A1410.401 - Contractual-Records Management.

**Second by:** Councilman Lang

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

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

**RESOLUTION NO.79:**

Councilman Lang offered the following:

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**RE-APPRAISAL FIXED ASSET  
INDUSTRIAL APPRAISAL COMPANY**

**WHEREAS**, the Town of Batavia's last re-appraisal for fixed assets was in 2003 and requires an updated appraisal; and,

**WHEREAS**, the Town received a proposal from Industrial Appraisal Company (proposal attached).

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby accepts the services of Industrial Appraisal Company for Inventory and Appraisal Services at a cost of \$6,850.00, \$125.00/parcel to provide research necessary to include land data and the annual service costs for Updating of the Insurable Values at a cost of \$625.00 and for Updating of the Fixed Asset Report at a cost of \$335.00.

**Second by:** Councilman Gerace

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

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

**RESOLUTION NO. 80:**

Deputy Supervisor Underhill offered the following:

**RESOLUTION AUTHORIZING ELBA TOWN COURT TO USE  
TOWN COURT MEETING ROOM FOR JURY TRIAL**

**WHEREAS**, Elba Town Justice Lois Petote has requested to use of the Batavia Town Court Meeting Room to hold a Jury Trial on Thursday, April 19<sup>th</sup>, 2012 and Friday, April 20, 2012 (request attached); and

**WHEREAS**, Batavia Town Justice's Cleveland and Williams and the Elba Town Board have no objections to that.

**NOW, THEREFORE,**

**BE IT RESOLVED**, the Batavia Town Board hereby authorizes the Town of Elba Court to hold a Jury Trial in the Batavia Town Court Meeting Room on Thursday, April 19 and Friday, April 20, 2012.

**Second by:** Councilman Gerace

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

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

**RESOLUTION NO. 81:**

Supervisor Post offered the following:

**AUTHORIZATION TO EXECUTE**

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**AGREEMENT BETWEEN GENESEE COUNTY SOIL AND WATER CONSERVATION  
DISTRICT AND TOWN OF BATAVIA  
FOR RECREATIONAL OPPORTUNITIES IN THE  
TONAWANDA CREEK WATERSHED**

**WHEREAS**, the Town is in the process of developing a plan for recreational access to the Tonawanda Creek and constructing a canoe launch; and

**WHEREAS**, the Highway Superintendent has requested entering into a cooperative agreement with Genesee County Soil and Water Conservation District for assistance with recreational opportunities in the Tonawanda Creek Watershed (agreement attached); and

**WHEREAS**, under Article II, Subsection 9 of Soil and Water Conservation Districts Law, Districts has the power to “(b)(i) ....develop a plan to promote one or more recreational programs applicable to privately owned or leased lands and waters”, and to “enter into agreements with .... any agency, governmental or otherwise.....” to accomplish the same; and

**WHEREAS**, a town superintendent of highways, with the approval of the town board and of the county superintendent, may permit the use of any highway machinery, tools or equipment owned by the town, by a soil and water conservation district created under and pursuant to the soil and water conservation districts law, upon such terms as may be agreed upon but with payment to the town of not less than the hourly rate fixed by the state commissioner of transportation for the rental or hiring of such machinery, tools or equipment by the town.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor to execute the attached agreement between the Genesee County Soil and Water Conservation District and the Town of Batavia; and be it

**FURTHER RESOLVED**, the Town will be reimbursed for services rendered in an amount not to exceed \$6,000 with said agreement expiring December 31, 2012.

**Second by:** Councilman Lang

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

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

**RESOLUTION NO. 82:**

Councilwoman Michalak offered the following:

**RESOLUTION TO AUTHORIZE THE PURCHASE OF REAL PROPERTY  
LOCATED AT 999 PARK ROAD FOR AN AMENDED PURCHASE PRICE**

**WHEREAS**, on December 21, 2011, the Town Supervisor, based upon the authority of the Town Board, executed a “Purchase and Sale Contract for Lots and Vacant Land” by and between the Town of Batavia and the City of Batavia to purchase real property owned by the City of Batavia, located at 999

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Park Road, and

**WHEREAS**, the property description in the aforesaid Contract listed the lot size as “19 acres of vacant land”, and

**WHEREAS**, as part of the transfer process, the Town had a Survey prepared by Licensed Surveyor, Kevin M. O’Donoghue, dated January 19, 2012, which indicated that the parcel actually contained only 15.665 acres of land, and

**WHEREAS**, the Town and the City have agreed to proportionately lower the purchase price to the sum of \$125,300.00, and

**WHEREAS**, on March 12,2012, the City of Batavia Council adopted a Resolution agreeing to transfer the property to the Town for the aforesaid reduced purchase price.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York, that it does hereby authorize and direct the Town Supervisor to sign all documents and to take all steps necessary on behalf of the Town to complete the purchase from the City of Batavia of a parcel of land located at 999 Park Road in the City of Batavia, New York, designated with Tax Map No. 71.13-3-1.111, for the reduced purchase price of \$125,300.00; pursuant to the terms and conditions of a “Purchase and Sale Contract for Lots and Vacant Land”, with an annexed “Buyer’s Responsibilities Addendum”, last dated December 21, 2011.

**Second by:** Councilman Lang,  
**Ayes:** Michalak, Lang, Underhill, Post  
**Nay:** Gerace  
**APPROVED** (4-ayes, 1-nay)

**Discussion-** Councilman Gerace questioned if the Town received a revised contract from the City of Batavia because the contract attached is the one from December.

Councilman Lang withdrew his second and Deputy Supervisor Underhill made a motion to table the resolution. The motion died due to lack of a second. Councilman Lang seconded the resolution again to further discuss. The resolution reflects the change is in the purchase price.

**RESOLUTION NO. 83:**

Councilman Gerace offered the following:

**ADMINISTRATION SERVICES AGREEMENT –**  
**CDBG GRANT WEST MAIN STREET ROAD SEWER DISTRICT**  
**BETWEEN THE TOWN OF BATAVIA AND STUART I. BROWN ASSOCIATES**

**WHEREAS**, the Supervisor wishes to retain Stuart I. Brown Associates to provide project management services and to assist the Town of Batavia in complying with the requirements of the CDBG for West Main Street Road Sewer District at a cost not to exceed Twenty-thousand dollars (\$20,000.00)

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(proposal attached).

**NOW, THEREFORE, BE IT RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor to retain Stuart I. Brown Associates for project management services and assisting the Town in complying with the requirements of the CDBG for the West Main Street Road Sewer District at a cost not to exceed Twenty-thousand dollars (\$20,000.00) and to execute the agreement between the Town of Batavia and Stuart I. Brown Associates.

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

**RESOLUTION NO. 84:**

Councilman Lang offered the following:

**APPROVAL OF CHANGE ORDER NO. 7**  
**WATER DISTRICT NO.6**  
**2007 WATER SYSTEM IMPROVEMENTS**

**WHEREAS**, Sergi Construction, Inc. is under contract with the Town of Batavia for the 2007 Water System Improvement project, and

**WHEREAS**, certain areas within the Ellicott/Townline Roads Water District and Water District No.6 have experienced low pressure, and

**WHEREAS**, Clark Patterson Lee has designed a pressure boosting system to alleviate the low pressure areas, and

**WHEREAS**, sufficient remaining grant funds are available to complete this work, and

**WHEREAS**, Sergi Construction, Inc. has submitted a change order proposal for additional work to the Booster Pump Station consisting of installing a “sand finish” exterior siding, a hip metal roofing system and installing a generator transfer switch, in the amount of Fifteen Thousand Six Hundred and Thirty-Four dollars and fifty cents (\$15,634.50) as shown on the attached Change Order No.7, and

**WHEREAS**, CLARK PATTERSON LEE, has reviewed Sergi Construction’s proposal 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.

**Second by:** Councilman Gerace  
**Ayes:** Lang, Gerace, Underhill, Michalak, Post

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

**Discussion-** Councilwoman Michalak questioned whether the change-order costs are being covered by grant dollars. The Town Engineer advised that they were.

**RESOLUTION NO. 85:**

Deputy Supervisor Underhill offered the following:

**RESOLUTION TO APPROVE A WATER CUSTOMER AGREEMENT  
WITH JONATHAN R. SHEPARD AND MARY BETH SHEPARD**

**WHEREAS**, the Town of Batavia has received a request from two of its residents, namely, Jonathan R. Shepard and Mary Beth Shepard, residing at 4875 East Road, and

**WHEREAS**, the Town of Batavia desires to provide water service to their residence, upon the same terms and conditions of other residents of the Town of Batavia that are served pursuant to an out of district Water Customer Agreement.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York, that the Supervisor is hereby authorized and directed on behalf of the Town of Batavia to execute a proposed Water Customer Agreement, by and between the Town of Batavia, and Jonathan R. Shepard and Mary Beth Shepard, residing at 4875 East Road, in the Town of Batavia, New York, and

**BE IT FURTHER RESOLVED** that the sale of water to these out of district customers in the Town of Batavia will not at this time reduce the supply of the Town of Batavia water so as to render the same insufficient to service all water districts within the Town of Batavia for the residents located therein, and

**BE IT FURTHER RESOLVED** that upon completion of the execution of the Water Customer Agreement, employees of the Town are hereby authorized and directed to take all steps necessary to provide water service to Jonathan R. Shepard and Mary Beth Shepard, and to invoice them for the required charges set forth therein.

**Second by:** Councilman Lang

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

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

**RESOLUTION NO. 86:**

Supervisor Post offered the following:

**AUTHORIZATION TO PURCHASE FIRE SAFE**

**WHEREAS**, a fire safe is needed for records management microfilm and data back-ups to store



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them outside of the Town Hall Office; and

**WHEREAS**, the safe would be located at the Town Highway Facility; and

**WHEREAS**, three quotes were received; and

**WHEREAS**, the lowest quote was for a Pioneer Safe from United Merchandising at a cost of \$1,249.00.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby authorizes the purchase of a Pioneer Safe from United Merchandising at a cost of \$1,249.00; and be it further

**RESOLVED**, the expenditure will be appropriated from line item A1410.201.

**Second by:** Councilman Gerace

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

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

**RESOLUTION NO. 87:**

Councilwoman Michalak offered the following:

**AUTHORIZATION TO PURCHASE FLAG, FLAG POLE AND BRICK  
BATAVIA BICENTENNIAL INTERNATIONAL PEACE GARDEN**

**WHEREAS**, Batavia Peace Garden, modeling the International Peace Garden concept that originated in Canada in 1990 is being developing on Main Street adjacent to the Holland Land Museum; and

**WHEREAS**, the Garden Route is designed to attract local and international visitors; and

**WHEREAS**, a commemorative brick, flag and pole may be purchased from the Friends of the Peace Garden for a cost of \$3,140.00; and

**WHEREAS**, the Town of Batavia will be recognized on the pole and commemorative brick.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby authorizes the purchase of a commemorative brick, flag and pole at a cost not to exceed \$3,140.00; and be it further

**RESOLVED**, the expenditure will be appropriated from line item A6410.400.

**Second by:** Councilman Gerace

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

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

**Abstract No. 3-2012:** Motion Deputy Supervisor Underhill, second Councilman Lang to authorize the Supervisor to pay the following vouchers:

General	\$ 76,127.78
Highway	35,698.75
Sewer No. 1	1,938.14
Sewer No. 2	3,210.26
Water	40,381.64
Putnam/Shepard	57,372.00
Ellicott	1,750.00
West Main Sewer	1,456.92
<b>Total</b>	<b>\$217,935.49</b>

Check numbers 16723 – 16728, 16730 – 16759, 16761- 16816, 16818 – 16824, online \$5,547.50, ACH \$33,088.58

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

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

**DEPARTMENT REPORTS:**

**The Supervisor reported on the following departments:**

**Highway**

**Drainage Improvements-** Over the next few months the Highway Department will be working on improving the drainage and pavement on Woodland Drive, Valle Drive and Fairway Drive. A letter recently was sent out to residents informing them of this.

**Maintenance-** Continuing roadside maintenance and removing debris from the park

**Building:**

- Day to day building and zoning inspections remain steady
- Project Wave has begun blasting on site to remove rock and complete pre work for footers
- Alpina Foods are on schedule and are moving along at a steady pace
- All equipment has been received and is up and running for accessibility on site and in the field
- Zoning Violations on several properties have been processed and closed out
- Plan review of several projects are currently taking place
- The review of many sections of the Town Code are being worked on for revisions
- Fire Inspections have begun and are expected to take less time due to utilizing software in the field
- Working on putting together several summaries for new building inquires
- Two department Staff have attended and completed annual continued education courses
- Dan Lang had the opportunity to attend a Peer to Boss course at the Best center at GCC and found it to be very beneficial
- Continue to have several reoccurring Zoning violations that are continually worked on
- Court will take place this week for a very long ongoing Building and Zoning

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- Several Home Occupation permits have been received and are being processed
- Recent Haven Lane Footing issues have been corrected
- Working on supporting documentation to assist the Assessor with any requested needs
- Answering all calls, emails and inquiries in a timely manner

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

**Pump Station-**The change order work for the pump station will be done within the next three weeks. Residents will be notified.

**Ag Park -** Continuing with electric

**Supervisor's Report:**

**Status Report on expenditures and revenues** is available for the Board's review. The investment sheets will be entered into the minute book. The General and Reserve Funds are invested in a CD's paying a rate of .45% and .23%.

**GAM-** Next GAM Meeting is April 19 at the Town of Pembroke Town Hall, hosted by the Town of Pembroke at 7:00 P.M.

**UNITED WAY DAY OF CARING:** Motion by Councilman Gerace, second by Councilman Lang authorizing a team of five employees (Hiedi Librock, Teresa Morasco, Steve Mountain, Joseph Neth and Marcy Crandall) from the Town of Batavia to participate in the United Way Day of Caring, Wednesday, May 16, 2012.

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

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

**TRAINING CREDIT HOUR-** Motion by Councilman Gerace, second by Councilwoman Michalak authorizing Planning Board Members and Zoning Board of Appeal Members to attend the "Shale Gas Development and WNY; What are the Implications to Your Community" workshop on March 29 at County Building II and earn 2.5 credit hours and attend the "Livable Communities Forum" on May 3 at Genesee Community College and earn 4 credit hours.

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

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

**REPAIR CONFERENCE ROOM CHAIRS-** Motion by Councilwoman Michalak, second by Councilman Lang authorizing Max Pies to repair approximately 12 conference room chairs at a cost of \$50.00 each.

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

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

**DISASTER PLANNING & RESPONSE WORKSHOP** – Motion by Councilman Lang, second by Deputy Supervisor Underhill authorizing the Town Clerk to attend the NYS Archives Disaster Planning & Response Workshop Thursday, March 22, 2012 at Genesee County Building II.

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

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

**HISTORIANS GAHWNY SPRING MEETING-**Motion by Councilman Gerace, second by Councilman Lang authorizing the Historian to attend the 2012 Government Appointed Historians of Western New York Spring Meeting on April 28, 2012 at a cost of \$25.00, plus mileage expenses.

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

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

**ETHIC AND THE ASSESSOR TRAINING-**Motion by Councilwoman Michalak, second by Deputy Supervisor Underhill authorizing Daniel Lang to attend the NYS Assessors Association Ethics and the Assessor training in Syracuse, New York, June 8, 2012 at a cost of \$110.00. The Town's vehicle will be used.

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

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

**NOTARY EXAM- BOOKKEEPER-** Motion by Deputy Supervisor Underhill, second by Councilwoman Michalak authorizing Marcy Crandall to take the NYS Notary Exam on Tuesday, April 24, 2012 at 11:00 a.m. in Rochester, New York at a cost of \$15.00.

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

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

**ANNUAL TOWN FINANCE SCHOOL-** Motion by Supervisor Post, second by Councilman Lang authorizing the Secretary to the Supervisor, the Bookkeeper and Town Board Members to attend the Annual Town Finance School May 10 – May 11, 2012 in Rochester at a cost of \$225.00. The Town's vehicle will be used.

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

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

**BJ'S MEMBERSHIP RENEWAL:** Motion Deputy Supervisor Underhill , second by Councilman Gerace authorizing the renewal of the BJ's membership for the Town at a cost of \$50.00/ year, with the Town Clerk as the primary member and Murray Morrow, Water/Wastewater Supervisor as the first supplemental member to make tax exempt purchases for the Town.

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

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

**COMMUNICATIONS:**

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

**February Town Clerk monthly report collected** a total of \$3,346.10, remitted \$3,176.70 to the Supervisor for the Local Share.

**February Tax Collector collections report-** Collected a total of \$132,332.45. Remitted \$1,100.83 to the Supervisor for penalties and \$131,231.62 to the Genesee County Treasurer

**Opposing Power NY-** Received an acknowledgement letter from Assemblyman Hawley's office of receipt of the Town's resolution opposing the Power NY Act of 2011

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**Genesee County Office for the Aging-** Received a thank you from the Genesee County Office for the Aging for the Town's contribution for the Senior Center Recreation Program

**Hattie Harris-Batavia Town Board Proclamation-** Received a Hattie Harris Good Spirits Club International (HHGSCI) National Thank You Day Proclamation of Appreciation. HHGSCI presents proclamations of appreciation to US elected officials in 50 states. On April 25, 2012 in Rochester, New York the HHGSCI is having a bipartisan National Thank You Day reception.

**Liquor License Renewal** –Received notification from Michael S. Tomaszewski, 4124 West Main Street Road that he is applying for a liquor licenses.

**2012 Campaign Finance Seminar-** The Board of Elections is conducting a Campaign Finance Seminar on Wednesday, may 16 from 9:30 a.m. to 12:30 p.m. at the GCBOE

**GFLRPC Spring 2012 Local Government Workshop** will be on May 7, 2012 at Burgundy Basin Inn in Pittsford. Town employees were emailed this information on the conference and workshop.

**ADJOURNMENT:**

Motion Councilman Gerace, second Councilwoman Michalak to adjourn the Regular Town Board Meeting at 8:35 P.M.

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

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

Respectfully submitted,

Teressa M. Morasco  
Town Clerk